

USDA

ORGANIC

ACCESS TO PASTURE PROPOSED RULE

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United States Department of Agriculture

La Farge, Wisconsin

December 2, 2008

Listening Session held at Organic Valley
Family Farms, One Organic Way, La Farge, Wisconsin,
before me, PHYLLIS KAPARIS, Registered Professional
Reporter and Notary Public in and for the state of

Wisconsin, on December 2, 2008, commencing at 1:30 in

the afternoon.

1 P R O C E E D I N G S

2 MR. SIEMON: Good afternoon,
3 everybody. Pleased to see everybody here, and
4 pleased and honored to have this listening
5 session here at Organic Valley's headquarters.
6 Appreciate the USDA doing it. Made it easy for
7 some of us. So really appreciate the USDA doing
8 these listening sessions. It's so important to
9 get out in the countryside to hear from the
10 actual people who have to live under the
11 standards, versus only the talking heads that
12 often go to the bigger meetings.

13 And the Organic community is very
14 unique because we went to Congress, you know,
15 15 years ago, whatever it was, and asked for a
16 rule, and we've been very active the whole time
17 in wanting a good, strict rule. So I don't think
18 there's probably any program in the United States
19 that has as much community involvement as
20 Organics does, and this whole process today is
21 part of that. So as a long-term groupie of sorts
22 to NOP and NOSB, it's been quite a process to
23 watch unfold, and it's quite a process for the
24 USDA to watch it unfold, too, because this is a
25 passionate community.

1 So today, you know, it's all about
2 the pasture and the positive things. So I just
3 want to make sure everybody sees there's coffee
4 and water back here and food. And appreciate all
5 the cooks and the maintenance people who worked
6 hard to put this together.

7 So I'm going to introduce Richard
8 Mathews, who is with the NOP, and was I think the
9 lead author on what we're going to comment on
10 today. Richard.

11 MR. MATHEWS: Thank you, George.
12 Yeah, everything in this is my fault. This light
13 is so bright, I can hardly see the faces out
14 there. So I'll do my best with that bright
15 light. Hope my glasses don't begin to change to
16 sunglasses.

17 The one thing I ask is that if you
18 want to be upset with me, that's okay. If you
19 want to say good things, that's okay. But just
20 don't throw water. I'm wired here.

21 What I want to do is really make this
22 your session. And I'm doing this in five
23 different locations. This is the second one.
24 There will be another one in Cheto later this
25 week on Thursday. I'll be in Amarillo on Monday,

1 and then in Gap, Pennsylvania on Thursday of next
2 week.

3 The purpose of these meetings is to
4 get your feedback on the rule. I want to hear
5 what works. I want to hear what doesn't work.
6 And for that which does not work, I want to hear
7 from you as to how do we make it work. Okay?
8 The main thing here is that we want to bring the
9 specificity to the rules that have been missing
10 and making it difficult to enforce these rules.
11 Okay.

12 So I'm here to listen. We'll start
13 out by running through my slides. The slides
14 convey the message of what is in the rule.
15 You're free to ask questions. I don't anticipate
16 too many questions, because I'm not really here
17 to debate the rule. Like I say, I'm here to find
18 out from you what works, what doesn't work, and
19 how do we go about making what doesn't work
20 actually work. So this is your opportunity to
21 get up and speak to the USDA and make this a
22 better rule.

23 Now, we've got a sign-up sheet that
24 is now floating through the room. The purpose of
25 having you sign up for commenting is to provide

1 it to the court reporter. This entire session is
2 being court reported. It will be on our website,
3 the full transcript of the meeting, including my
4 presentation. You'll note once these have all
5 been done, that the presentation will all be the
6 same. I'll be basically reading the regulatory
7 language to you.

8 The court reporting will go up as
9 fast as we can. It will probably take on average
10 about 30 days to get it up. One has already gone
11 up. That was the one that was done in Auburn,
12 New York.

13 Any questions on how this program is
14 going to work?

15 MR. SIEMON: How long are we
16 speaking?

17 MR. MATHEWS: Oh, yes, very good.

18 MR. SIEMON: Twenty minutes each?

19 MR. MATHEWS: I know that we have at
20 least 17 people signed up, so twenty minutes is
21 probably a little long. However, I will not tell
22 you that you only have a certain amount of time
23 to speak. What I ask is that you be mindful of
24 the needs of others to get up and make comments.
25 Okay? Also, I'm willing to stay as long as it

1 takes. I'm hoping the court reporter will be
2 able to accommodate. I think she probably can.
3 However, I don't want a dissertation or a speech
4 given. I'm looking for feedback that can be used
5 to make this rule work for us, something that I
6 can use to put this into final form, get it out
7 there to help the dairy farmers and the beef
8 farmers and the goat farmers and the sheep
9 farmers. Okay? So you're free to speak for
10 30 seconds, 10 minutes, but please no diatribes
11 that are not helpful to the process.

12 With that, let's get started on the
13 slides. We're actually going to be talking today
14 about the livestock provisions. As you know,
15 that there are currently four sections to the
16 regulations for livestock, origin of livestock,
17 livestock feed, livestock health care practice
18 standard, livestock living conditions. Those are
19 the four current provisions.

20 Origin of livestock we'll touch on
21 very briefly, and near the end, under the
22 miscellaneous category. This is a provision that
23 is rather controversial. It's a provision that
24 we're working on separate rulemaking for.

25 Livestock feed is a part of this

1 presentation that you'll see some significant new
2 wording.

3 For livestock health practices, we've
4 made no suggested changes to that section.

5 Livestock living conditions, again,
6 there's a lot of wording that is new in there.

7 And then, of course, there's a whole
8 new section called pasture practice standards,
9 and that one is all new language. However, there
10 are only three new provisions in this regulation,
11 this proposed regulation. They are the provision
12 that you can only feed 70 percent from nonpasture
13 source, and 30 percent has to be grazed from
14 rooted pasture, and the sacrificial pasture
15 provision. Those are the only new provisions in
16 this rule. The rest of it is clarification.

17 Let's start out with Section 237,
18 livestock feed. As we go through this, you're
19 going to notice that there's white text. The
20 white text is what is new, is what we're
21 proposing to add. So in this livestock feed,
22 paragraph A, the producer of an organic livestock
23 operation must provide livestock with a total
24 feed ration composed of agricultural products,
25 including pasture and forage that are organically

1 produced by operations certified to the NOP
2 except as provided in 205236 (A)(2)(i), and if
3 applicable organically handled by operations
4 certified to the NOP.

5 This is a clarification. The
6 236(A)(2)(i), as you may recall, is the provision
7 that came out of the Harvey lawsuit, or as a
8 result of the Harvey lawsuit, where Congress
9 amended the statute to allow that products from
10 the third year of an operations transition could
11 be fed to their animals. Okay.

12 Now, there's an exception to this
13 provision. The old language is, except that
14 nonsynthetic substances and synthetic substances
15 allowed under 205603 may be used as feed
16 additives and supplements.

17 The new language that is proposed is,
18 except that synthetic substances allowed under
19 205603 and nonsynthetic substances may be used as
20 feed additives and supplements.

21 You might ask, well, what's the
22 difference? Well, interestingly enough, part of
23 the problem has been that there was some
24 confusion over the nonsynthetic substances and
25 synthetic substances allowed under 205.603. Some

1 people were thinking that the nonsynthetics were
2 also listed in 205.603. They're not. Naturals
3 don't have to be listed. So it's just a
4 reversing of that language.

5 And we have a problem with this
6 slide. We're not seeing the bottom of the slide.
7 Okay.

8 Provided that all agricultural
9 ingredients in such additives and supplements
10 still have been produced and handled organically.
11 That's another new piece of language for
12 clarification. That really says that the
13 regulations require that all of the agricultural
14 ingredients of a livestock feed be organically
15 produced, that they have to be organic.

16 What we have found is that some
17 people were using conventional agricultural
18 products as carriers for like the supplements and
19 additives. We had one case where a molasses
20 product was used for carrying the vitamins and
21 minerals but it was almost pure molasses. And
22 molasses is an agricultural product, and that
23 molasses should have been certified organic.

24 This is old language. The producer
25 of an organic operation must not use animal

1 drugs, including hormones to promote growth;
2 provide feed supplements or additives in amounts
3 above those needed for adequate nutrition and
4 health maintenance for the species at its
5 specific stage of life; feed plastic pellets for
6 roughage; feed formulas containing urea or
7 manure; feed mammalian or poultry slaughtered
8 by-products to mammals or poultry; use feed, feed
9 additives and feed supplements in violation of
10 the Federal Food, Drug and Cosmetics Act. That's
11 all language that's already in the regulations.

12 What we're proposing is two new
13 items. Provide feed or forage to which anyone at
14 any time has added an antibiotic. Again, that's
15 not a new provision because antibiotics are
16 prohibited. But what we found is that some
17 people were getting feed that had antibiotics
18 added to it. So we're clarifying the point that
19 it can't be in the feed, as well as injected into
20 the animal or added by the farmer. It also can't
21 be added by the handler of the feed.

22 The next one is prevent, withhold,
23 restrain or otherwise restrict ruminant animals
24 from actively obtaining feed grazed from pasture
25 during the growing season, except for conditions

1 as described under 205.239(C). And that
2 provision will address the exceptions to the
3 animals being on pasture.

4 During the growing season producers
5 shall provide not more than an average of
6 70 percent of a ruminant's dry matter demand from
7 dry matter fed. Dry matter fed does not include
8 dry matter grazed from vegetation rooted in
9 pasture.

10 Producers shall once a month, on a
11 monthly basis, one, document each feed ration for
12 each type of animal, each class of animal's
13 intended daily diet showing all ingredients,
14 daily pounds of each ingredient per animal, each
15 ingredient's percentage of the total ration, and
16 the dry matter percentage of each ingredient, and
17 the dry matter pounds for each ingredient.

18 Document the daily dry matter demand
19 of each class of animals using the formula,
20 average weight per animal, times .03 pounds,
21 equals the pounds dry matter per head per day.
22 Number of animals equals total dry matter demand
23 per pound per day.

24 Document how much dry matter is fed
25 daily to each class of animal and document the

1 percentage of dry matter fed daily to each class
2 of animal using the formula, dry matter fed,
3 divided by dry matter demand in pounds per day,
4 times 100, equals the dry matter fed.

5 Now, when that says daily, it doesn't
6 mean that you're doing it on a daily basis. We
7 have in the proposed rule, the -- a sample. This
8 is actually a monthly reporting where you're
9 estimating on a daily basis for a once a month
10 reporting. And by the way, there are copies of
11 the rule out on the table out there for anybody
12 who would like to get one.

13 Now we're going to move on to
14 Section 205.239, Livestock living conditions.
15 The producer of an organic livestock operation
16 must establish and maintain year-round livestock
17 living conditions which accommodate the health
18 and natural behavior of the animals, including
19 those listed in paragraphs (a)(1) through (a)(3)
20 of this section. Further, producers shall not
21 prevent, withhold, restrain or otherwise restrict
22 animals from being outdoors, except as otherwise
23 provided in paragraph (b) and (c) of this
24 section.

25 Producers shall also provide

1 year-round access for all animals to the
2 outdoors, shade, shelter, exercise areas, fresh
3 air, water for drinking, indoors and outdoors,
4 and direct sunlight suitable to the species, its
5 stage of life, the climate, and the environment.

6 Old number two read, access to
7 pasture for ruminants. We're proposing that this
8 number two now read, for all ruminants,
9 continuous year-round management on pasture,
10 except as otherwise provided in paragraph (c) of
11 this section for: (i), grazing throughout
12 growing season; and (ii), access to the outdoors
13 throughout the year, including during the
14 nongrowing season. Dry lots and feedlots are
15 prohibited.

16 Paragraph 3 currently reads,
17 Appropriate clean, dry bedding. If the bedding
18 is typically consumed by the animal species, it
19 must comply with the feed requirements of
20 205.237.

21 The new language would read,
22 Appropriate clean, dry bedding. When hay, straw,
23 ground cobs or other crop matter typically fed to
24 the animal species is used as bedding, it must
25 comply with the feed requirements of 205.237.

1 This is being proposed because we
2 found that there were a lot of -- or some anyway,
3 who were using conventional bedding and claiming
4 their animals wouldn't eat it. So we disagree.
5 They will eat it, and they should have been using
6 organic bedding. So this will clarify that and
7 make it easier to enforce.

8 Four currently reads, Shelter
9 designed to allow for: Natural maintenance,
10 comfort behaviors and opportunities to exercise.
11 Temperature level, ventilation and air
12 circulation suitable to the species and reduction
13 of potential for livestock injury. There's no
14 change.

15 Paragraph (b), currently reads, The
16 producer of an organic livestock operation may
17 provide temporary confinement for an animal
18 because of: And then it will go through, down
19 below, what that first part of paragraph (b),
20 we're proposing a change to make it read, The
21 producer of an organic livestock operation may
22 temporarily deny a non-ruminant animal access to
23 the outdoors because of: Inclement weather, the
24 animal's stage of life, conditions under which
25 the health, safety, or well-being of the animal

1 could be jeopardized, or risk to soil or water
2 quality. That's -- where we've inserted the word
3 life, it used to say production.

4 (c) is all new language intended to
5 clarify what we had intended all along. The
6 producer of an organic livestock operation may
7 temporarily deny a ruminant animal pasture under
8 the following conditions: When the animal is
9 segregated for treatment of illness or injury.
10 The various life stages such as lactation are not
11 an illness or injury. One week prior to
12 parturition (birthing), parturition, and up to
13 one week after parturition. In the case of
14 newborns for up to six months, after which they
15 must be on pasture and may no longer be
16 individually housed.

17 In the case of goats, during periods
18 of inclement weather.

19 (5), in the case of sheep, for short
20 periods for shearing.

21 And (6), in the case of dairy
22 animals, for short periods daily for milking.
23 Milking must be scheduled in a manner to ensure
24 sufficient grazing time to provide each animal
25 with an average dry matter intake from grazing of

1 not less than 30 percent throughout the growing
2 season. Milk frequencies or duration practices
3 cannot be used to deny dairy animals pasture.

4 Ruminants must be provided with: A
5 lying area with well-maintained, clean dry
6 bedding, which complies with paragraph (a)(3) of
7 this section. During periods of temporary
8 housing, provided due to temporary denial of
9 pasture during conditions listed in paragraph
10 (c)(1) through (c)(5) of this section.

11 (2), Yards and passageways kept in
12 good condition and well drained.

13 (3), Shade, and in the case of goats,
14 shelter open on at least one side.

15 (4), Water at all times, except
16 during short periods for milking or shearing.
17 Such water must be protected from fouling.

18 (5), Feeding and watering equipment
19 that are designed, constructed and placed to
20 protect from fouling - such equipment must be
21 cleaned weekly; and in the case of newborns, hay
22 in a rack off the ground beginning seven days
23 after birth, unless on pasture, and pasture from
24 grazing in compliance with 205.240(a) not later
25 than six months after birth.

1 This one is just a repeat of current
2 paragraph (c), which would now be listed as
3 paragraph (e) because of the addition of the new
4 (c) and (d). And that one currently reads, The
5 producer of an organic livestock operation must
6 manage manure in a manner that does not
7 contribute to contamination of crops, soil or
8 water by plant nutrients, heavy metals or
9 pathogenic organisms and optimizes recycling of
10 nutrients.

11 We're adding a paragraph (f), The
12 producer of an organic livestock operation must
13 manage outdoor access areas, including pastures,
14 in a manner that does not put soil or water
15 quality at risk. This includes the use of fences
16 and buffer zones to prevent ruminants and their
17 waste products from entering ponds, streams, and
18 other bodies of water. Buffer zone size shall be
19 extensive enough, in full consideration of the
20 physical feature of the site to prevent the waste
21 products of ruminants from entering ponds,
22 streams, and other bodies of water.

23 And the next part will go over the
24 proposed pasture practice standard
25 Section 205.240. The producer of an organic

1 livestock operation must, for all ruminant
2 livestock on the operation, demonstrate through
3 auditable records in the organic systems plan a
4 functioning management plan for pasture which
5 meets all requirements of Sections 205.200
6 through 205.240.

7 (a), Pasture must be managed as a
8 crop in full compliance with 205.200 through
9 205.206.

10 A producer must develop and annually
11 update a comprehensive pasture plan for inclusion
12 in the producer's organic systems plan. When
13 there is no change to the previous year's
14 comprehensive pasture plan, the certified
15 operation may resubmit the previous year's
16 comprehensive pasture plan.

17 In other words, once you've got it
18 done the first time, you're not making changes,
19 you can just keep resubmitting the previous one.
20 And if you did make a change, you'd only have to
21 denote what the change is and resubmit it.

22 (c), The comprehensive pasture plan
23 must include a detailed description of: Crops to
24 be grown in the pasture and haymaking system;
25 cultural practices, including but not limited to

1 varying the crops and their maturity dates in the
2 pasture system to be used to ensure pasture of a
3 sufficient quality and quantity is available to
4 graze throughout the growing season, and to
5 provide all the ruminants under the organic
6 systems plan with an average of not less than
7 30 percent of their dry matter intake from
8 grazing throughout the growing season.

9 You have to describe the haymaking
10 system.

11 (4), The location of pasture and
12 haymaking fields, including maps showing the
13 pasture and haymaking system and giving each
14 field its own identity; the type of grazing
15 methods to be used in the pasture system; the
16 location and type of fences and the location and
17 source of shade and water; soil fertility,
18 seeding and crop rotation systems; the pest, weed
19 and disease control practices; the erosion
20 control and protection of natural wetlands,
21 riparian areas, and soil and water quality
22 practices; pasture and soil sustainability
23 practices; and restoration of pastures practices.

24 Paragraph (d) of the new section, The
25 pasture system must include a sacrificial pasture

1 for grazing to protect the other pastures from
2 excessive damage during periods when saturated
3 soil conditions render the pastures too wet for
4 animals to graze.

5 The sacrificial pasture must be:
6 Sufficient in size to accommodate all animals in
7 the herd without crowding; located where soils
8 have good trafficability; are well drained; there
9 is a low risk of soil erosion, there is low or no
10 potential for manure runoff; surrounded by
11 vegetated areas; and easily restored.

12 Sacrificial pasture must be managed
13 to provide feed value; and maintain or improve
14 soil, water and vegetative resources. And it
15 must be restored through active pasture
16 management.

17 Paragraph (e), in addition to the
18 above, producers must manage pastures to comply
19 with all applicable requirements of
20 Section 205.236 through 205.239 of the livestock
21 provisions.

22 Now we're going to go through some
23 definition changes. Part of the problem
24 historically has been that we needed to define
25 some terms, and because we are fleshing out more

1 on the pasturing side of it, we've decided to add
2 some definitions that will help understand that
3 as well.

4 Currently the crop definition is, a
5 plant or part of a plant intended to be marketed
6 as an agricultural product or fed to livestock.

7 One of the things that we found is
8 that there's a seed provision, as you all are
9 aware, that you have to use organic seeds, and we
10 found that in some cases certifying agents were
11 not requiring certified seed, for various
12 reasons, because they said it wasn't covered
13 under the definition of crop. So we're proposing
14 to capture some of those other seeds under the
15 definition of crop. They were always considered,
16 as far as we are, to be required that you had to
17 first (inaudible) the source organically. But
18 we've had some people play with the terminology,
19 and so therefore we're trying to close this
20 loophole.

21 Crop would now be defined as,
22 pastures, sod, covered crops, green manure crops,
23 cash crops, and any plant or part of a plant
24 intended to be marketed as an agricultural
25 product fed to livestock or used in the field to

1 manage nutrients and soil fertility.

2 We're adding the definition for dry
3 matter. The amount of a feedstuff remaining
4 after all of the free moisture is evaporated out.

5 Dry lot, A confined area that may be
6 covered with concrete but has no vegetative
7 cover.

8 Feedlot, A confined area for the
9 controlled feeding of ruminants.

10 Graze, The consumption of standing
11 forage by livestock, to put livestock to feed on
12 standing forage.

13 Grazing, To graze.

14 Growing season is defined. The
15 period of time between the average date of the
16 last killing frost in the spring to the average
17 date of the first killing frost in the fall or
18 early winter in the local area of production.
19 This represents a temperature threshold of
20 28 degrees Fahrenheit -- that would be minus 3.9
21 degrees Celsius -- or lower at a frequency of
22 five years in ten. Growing season may range from
23 121 days to 365 days.

24 Inclement weather. Weather that is
25 violent or characterized by temperature, high or

1 low, that can kill or cause permanent physical
2 harm to a given species of livestock.

3 Killing frost. A frost that takes
4 place at temperatures between 25 degrees and
5 28 degrees Fahrenheit -- minus 2.2 and the
6 3.9 degrees Celsius -- for a period sufficiently
7 severe to end the growing season or delay its
8 beginning.

9 Sacrificial pasture. A pasture or
10 pastures within the pasture system of sufficient
11 size to accommodate all animals in the herd
12 without crowding, where animals are kept for
13 short periods during saturated soil conditions to
14 confine pasture damage to an area where potential
15 environmental impacts can be controlled. This
16 pasture is then deferred from grazing until it
17 has been restored through active pasture
18 management. Sacrificial pastures are located
19 where soils have good trafficability; are well
20 drained; have low risk of erosion; have low or no
21 potential of manure runoff; are surrounded by
22 vegetated areas, and are easily restored. A
23 sacrificial pasture is land used for livestock
24 grazing that is managed to provide feed value and
25 maintain or improve soil, water and vegetative

1 resources. It is not a dry lot or feedlot.

2 Temporary and temporarily. We've

3 decided we needed to define that as well.

4 Occurring for a limited time only, for example,

5 overnight, throughout a storm, during a period of

6 illness, the period of time specified by the

7 Administrator when granting a temporary variance,

8 not permanent or lasting.

9 The definition of livestock currently

10 reads, Any cattle, sheep, goat, swine, poultry,

11 equine animals used for food or in the production

12 of food, fiber, feed, or other agricultural-based

13 customer products; wild or domesticated game; or

14 other nonplant life, except such terms shall

15 include aquatic animal or bees for the production

16 of food, fiber, feed, or other agricultural-based

17 consumer products.

18 This definition is in conflict with

19 the definition in the statute, and so we're

20 proposing to bring the definition of livestock

21 that occurs in the regulations in line with the

22 definition that's currently in the statute.

23 As revised it would read, Livestock,

24 any bee, cattle, sheep, goats, swine, poultry,

25 equine animals used for food or in the production

1 of food, fiber, feed, or other agricultural-based
2 consumer products; fish used for food; wild or
3 domesticated game; or other nonplant life.

4 As I said, the old definition was in
5 conflict with the statute. It also was in
6 conflict with the actual practices within
7 Organic, and that has to do with the definition
8 of livestock excluded bees, yet we do allow for
9 the production of honey. So that made it a
10 defect.

11 Use of the term, "organic." Produced
12 in accordance with the requirements specified in
13 205.101 or 205.202 through 205.207, or
14 Sections 205.236 through 205.240, and all other
15 applicable requirements of part 205. The reason
16 why this is in here is that it currently reads,
17 on that third line, 205.239. So if Section 240
18 is added to the regulations, we would have to
19 amend 205.102 to now show that there is an
20 additional section that is covered by this part.

21 This is a real controversial one.
22 205.236, Origin of Livestock. The old language
23 reads, Once an entire distinct herd has been
24 converted to organic production all dairy animals
25 shall be under organic management from the last

1 third of gestation.

2 The proposed language is, Once an
3 operation has been certified for organic
4 production using the exception in paragraph
5 (a)(2)(i) or (i)(i) of this section, all dairy
6 animals brought onto the operation shall be under
7 organic management from the last third of
8 gestation.

9 This -- when the rulemaking for this
10 particular action first started, it was a point
11 of misunderstanding among some producers, and
12 definitely among certifying agents. And so this
13 was originally written as a clarification for
14 them, and the rule took a very long time to get
15 out, so this is kind of old news. However, I do
16 know that it has stimulated some conversation, as
17 we were hoping it would actually.

18 The thing that I'm looking for out of
19 this is for people to think beyond what the board
20 had recommended, because there are implications
21 beyond the board's original recommendation of
22 changing paragraph (3) to just say, well, you got
23 to have it from the last third of gestation. Why
24 do I say that? Well, the board's recommendation
25 still only applies to the exception to the

1 exception, okay. So the board's recommendation
2 really doesn't solve the problem. And so what we
3 need to do is we need to consider a whole new
4 rewrite of paragraph (a)(2) for the origin of
5 livestock.

6 But when you do that, you have to
7 consider what, if anything, has to be done about
8 breeder stock. If you have a requirement that
9 all animals be organic from the last third of
10 gestation, what is your intent regarding breeder
11 stock coming onto the farm? Because I would
12 interpret that to mean the breeder stock would
13 have to be last third of gestation animals to
14 come onto the farm. Because what has been
15 proposed is that once you're certified, all
16 animals coming onto your farm from that day
17 forward had to be last third of gestation
18 animals. The board recommendation doesn't
19 address that for breeder stock.

20 What it also doesn't address is the
21 situation where we have a farmer who converted
22 his animals through the 12-month process. His
23 neighbor is last third of gestation. The farmer
24 who wants -- who did the conversion, the 12-month
25 conversion, he wants to sell his animals. He

1 wants to retire, move to Florida where it's warm.
2 Under the proposal as originally presented, the
3 guy who is the next-door neighbor, who may have
4 room in the milk tank to take his animals, can't
5 buy them, because those weren't last third of
6 gestation animals. But why shouldn't he be
7 allowed to buy those animals? They've been
8 giving organic milk all this time.

9 So we're wrestling with some issues
10 in trying to put together the proposed rule on
11 origin of livestock. And I bring that up because
12 I encourage you to go ahead and comment on this
13 provision and give us your thoughts on issues
14 that go beyond just saying, all the animals have
15 to be organic from the last third of gestation.
16 Think outside the box a little bit about your
17 particular situation, your neighbor's situation.
18 Take into consideration those examples I just
19 gave you. I need that feedback so I can do a
20 rule for origin of livestock. Okay?

21 Okay. At this time I would like to
22 invite comments and your feedback. We have the
23 sign-up sheet. Has everybody who wants to speak
24 signed up? We can go by first on the list. I
25 don't know, Mark. Come on up.

1 MR. KASTEL: Thank you, Rick. Good
2 to see you.

3 My name is Mark Kastel, and I am the
4 co-director of the Cornucopia Institute, and I'm
5 here today representing our thousands of members
6 around the country. We're very proud to probably
7 represent more organic farmers than any other
8 group currently. And I'm a local boy.

9 Rick, I have great personal respect
10 for you. I've known you for some time. And
11 there's plenty of good rulemaking here. But
12 something's gone wrong along the way. The
13 proposed rule as written would undoubtedly put a
14 crimp on these large industrial dairies that have
15 been scoffing at the current regulations. But,
16 unfortunately, if they were implemented exactly
17 as written, they would probably put out of
18 business the majority of family-scale producers
19 in this country, or radically cause a change to
20 their operations.

21 So part of the dynamic here is the
22 current rule was basically working. The majority
23 of all livestock producers in this country,
24 organic livestock producers, understood and
25 followed the rule. The majority of the

1 certifiers understood and implemented the rule.

2 We had a small group of operators that were
3 willing to abuse that trust of the consumer.

4 The organic community asked the USDA
5 through a collaborative process that took years,
6 with the National Organic Standards board, to
7 tweak the current rule to try to eliminate what
8 some folks were calling loopholes. We didn't
9 really think the current rule at Cornucopia
10 needed to be amended. It's perfectly
11 enforceable. The decertification of the 10,000
12 cow Vander Recht Dairy, the enforcement action by
13 the professionals at the USDA against the Aurora
14 Dairy -- forget about the fact they were let off
15 the hook and given probation -- proved that the
16 current rules were enforceable.

17 The Federal Register notice in two
18 areas articulated the fact that you folks were
19 aware that some farm operators were violating the
20 current standards and that some certifiers were
21 not properly applying the regulations. If you
22 know that, if you folks know that at the USDA,
23 you need to take enforcement action. We don't
24 need the rule to do that. But here we are, and
25 we're going to engage with you as best we can.

1 There are now about 16 large CAVOS
2 with over 2,000 cows operating in the United
3 States producing, we estimate somewhere between
4 34.5 and 40 percent of the milk. When we first
5 appealed, when the National Organic Standards
6 Board first asked for these rule tweaks, there
7 were two CAVOS operating in this country. So
8 we're in a very much of a bind. We can't get
9 fair pricing for milk today because of this.

10 This rulemaking was not minor tweaks.
11 This is major surgery. And it bypassed the
12 National Organic Standards Board and bypassed the
13 organic community. So what the Cornucopia
14 Institute is encouraging are two things.

15 One, we formally ask the USDA to
16 extend the public comment period by 30 days.
17 Here we are halfway through the 60 days, and
18 we're just now engaged in the process as a
19 community of understanding what the implications
20 of the rule are going to really mean. And
21 somewhere between 30 and 40 percent of our
22 membership, which we assume at Cornucopia is
23 reflective of the organic farming community,
24 doesn't have the e-mail. And that includes the
25 Amish community. So somehow in this holiday mail

1 season some folks are going to have to receive
2 two-way communications now, and we're concerned
3 some stakeholders will be shut out.

4 And then we really encourage the
5 organic community to engage in this process that
6 we're now in. So first we're going to make two
7 tangible recommendations here, Rick. We want you
8 to strip out the prohibition in this rule for
9 finishing beef cattle in confinement. The
10 industry doesn't operate that way right now.
11 There are good arguments on both sides, and we've
12 heard them from our membership, some that totally
13 support the language you've incorporated, some
14 that it will put them out of business, they say.
15 But the fact of the matter is, this has not been
16 vetted by the organic community, and in fact this
17 rulemaking overrides the recommendation that's on
18 the table from the National Organic Standards
19 Board. So strip that out. Let's concentrate on
20 what we can all agree on. And then go -- if you
21 can adopt the NOP recommendation, this needs to
22 be discussed by the organic community.

23 Likewise, Origin of Livestock that
24 you were just discussing, Mark Castel, Jim
25 Riddle, probably Bill Welch, former NOSB

1 livestock member, we never thought that you could
2 convert conventional cattle to organics in
3 perpetuity.

4 How many organic dairy producers here
5 buy replacement heifers? Okay. Real organic
6 farmers sell replacement heifers. Aurora and
7 some of these other large factory farms buy
8 trailer loads full of replacements. Because just
9 like conventional dairies, they burn their cattle
10 out because they're pushing them too hard.
11 They're not really organic farmers.

12 MR. MATHEWS: Can we kind of move
13 along, Mark? We've got a lot of other people.
14 I'm not looking for a speech. I'm looking for --

15 MR. KASTEL: Okay. I thought you
16 weren't going to pull the rug out from me, Rick.

17 Okay. Rick, we want you to pull that
18 part out because it's contrary to the
19 recommendation of National Organic Standards
20 Board. And if you want to do wholesale
21 rulemaking, you need to reengage the board as is
22 legally required and the organic community.

23 Finally, we recommend that -- and I'm
24 going to pass these out to -- I only have enough
25 for probably the agricultural producers here.

1 This is on our website. This is a draft that the
2 food farmers have come up with in collaboration
3 with the Cornucopia Institute and many
4 certifiers, and it pulls out the requirement for
5 365 days of outdoor access without being able to
6 provide shelter for your animals in inclement
7 weather. It does advance stall barns. It amends
8 the definition of the grazing season. I'm just
9 back from Washington, Oregon, and California.
10 They don't have frost dates out there, Rick, but
11 they have dry periods and they have wet periods
12 that need to be accommodated.

13 So, again, thank you for coming to
14 La Farge and hearing our comments. And I'll pass
15 this through. This is available on our web, so
16 if you've got web access, I'd ask the
17 professionals in the room, nonproducers, to not
18 take this copy.

19 Thank you, Rick.

20 MR. MATHEWS: Okay. Next?

21 MR. ADAMSKI: Welcome, Rick.

22 MR. MATHEWS: One thing I forgot to
23 mention with Mark was that I would like everybody
24 to say their name for the record, for the court
25 reporter. But I would also like them, for my

1 information, to let us know what they do. I
2 would really like to know whether or not I'm
3 listening to a dairy farmer when I'm hearing
4 these comments, or a beef farmer or goat, sheep.
5 I'd like to know what kind of farmer you are, if
6 you're a farmer.

7 MR. ADAMSKI: I'm Rick Adamski. I'm
8 an Organic Valley dairy producer from
9 northeastern Wisconsin. Been an Organic Valley
10 dairy producer for the last five years. And I
11 just wanted to take the opportunity to thank you
12 for this listening session. I think that it's a
13 great opportunity, and appreciate the opportunity
14 for feedback.

15 I'm also a member of the Organic
16 Valley Pasture Policy Committee. We're working
17 on a response, formulated response, but I'm
18 speaking as myself today as an Organic Valley
19 producer member. And I just wanted to say that
20 I'm a strong advocate for managed grazing
21 systems, and I think that this is a step that's
22 very helpful, prescriptive, maybe overly so. I
23 think that there is -- it's very good that there
24 is a 30 percent dry matter intake requirement.
25 Generally I think that overall it's a reasonable

1 policy that can be worked.

2 As a managed grazer who has been
3 working with grazing systems for 20 years, I
4 would have to say that I'm still a beginner, and
5 there's a lot of learning for me to go through,
6 even though I have gone through a lot of learning
7 in the last 20 years. And I think it's a
8 natural, logical procession, considering our
9 energy crisis that we're dealing with and our
10 healthcare system crisis, that grazing systems
11 come to be as natural.

12 I'd also like to generally give a
13 word of support for the food farmers' analysis of
14 this policy.

15 So thanks again for the opportunity.

16 MR. MATHEWS: Okay.

17 MR. SIEMON: Bonnie and then Mike
18 Schulist is next.

19 MS. WIDEMAN: Hi, I'm Bonnie Wideman,
20 and I'm the Director of Midwest Organic Services
21 Association, MOSA. And I'm also an organic sheep
22 and beef producer, so I can speak for that, too.

23 We were very appreciative of MOSA to
24 get the proposed regulation. We see there is
25 room for change, but we feel that just the fact

1 that you're here today listening to us means that
2 you're willing to listen to what we have to share
3 with you.

4 We at MOSA work very closely with the
5 food farmers, and we have -- our counterproposals
6 are so close we can't tell what came from which
7 organization. We also want to provide you with
8 some real data about what doesn't work and why it
9 doesn't work. And to this end, we have just sent
10 out -- in fact, many of our farmers are here, and
11 it may be in your mailboxes today -- there's
12 going to be the NOP proposals and the MOSA
13 suggestions. And what we're asking for is
14 ability to comply. And if a farmer can't comply,
15 we want them to tell us why. In addition to
16 that, we want them to tell us economic impact.
17 If they were to comply with the proposals, what
18 would it cost? Would they be able to keep
19 farming organically? Because we feel that's what
20 you want.

21 MR. MATHEWS: That's exactly what I
22 want.

23 MS. WIDEMAN: So we're sending it
24 out. We have over 1,000 farmers, and over 600 of
25 them are livestock, and probably 475 dairy. So

1 hopefully we'll get a good return rate. I know
2 they might look at this as more organic
3 paperwork. But we really wanted to be able to
4 provide this, with our comments, by
5 December 23rd.

6 So we're grateful for the proposal,
7 though, because it recognizes that pasturing is
8 an important part of organic livestock
9 production. And also we're grateful for the
10 numbers, because we feel that if there hadn't
11 been a problem, you wouldn't have made a proposed
12 rule. And the problem was that for some, access
13 to pasture, was access to wind, water and
14 scenery. We've never had a problem looking at it
15 that way at MOSA. But pasture needs to be
16 quantified, so --

17 But I would like to identify the ten
18 areas that we feel do not work. The necessity to
19 establish sacrificial pastures, we see this as
20 costly, requiring more land than many have, and
21 not necessarily good land management or animal
22 husbandry practices.

23 We see it as a problem, the lack of
24 allowance for confinement of animals for
25 inclement weather. Many cows would prefer not to

1 be out even today here in Wisconsin. For
2 confinement we think that yards should be allowed
3 for feeding. We recognize that the term feedlot
4 has a negative connotation for consumers, but we
5 believe that good nutrient management practices
6 call for feeding in lots where manure can be
7 collected and even composted. Part of this is
8 the idea of year-round management on pasture. We
9 don't feel it's practical.

10 We see that the proposed rule would
11 have implications for the already struggling
12 organic meat industry that I'm part of myself.
13 And that the NOP proposal would not accommodate
14 grain finishing. Consumers expect grain-finished
15 organic meat.

16 We think that the requirements for
17 pasturing and the requirements for outdoor access
18 should be kept separate. We think there should
19 be consideration that the grazing season is not
20 necessarily the same as the growing season. I
21 think growing season around here is, what,
22 May 15th through September 15th. My cows and
23 sheep were getting all of their forage, all of
24 their nutrition from pasture up until
25 November 15th, so -- and also that if the grazing

1 season is considered extendable by grazing crop
2 residues, that would make it possible for some
3 farmers to more easily meet 30 percent.

4 And we think that shade may be an
5 issue, since many consider shade areas to be
6 detrimental to intensive rotation of grazing, or
7 in range grazing there may not be shade
8 available.

9 This is really important to us. We
10 feel that the record keeping to demonstrate
11 compliance is necessary, but the details should
12 be left to us, that it is important that
13 producers in their organic plan show us what
14 their feed rations are, they document their feed
15 rations, they document their changes. But let us
16 be the ones to determine whether 30 percent is
17 met or not. We have received reports from
18 nutritionists that say 30 percent from pasture.
19 We wouldn't necessarily support them just on the
20 face of it. We want to be the ones, and working
21 with other certifiers. We want to be the ones to
22 identify what numbers we used.

23 And we feel the requirements for
24 waterers and feeders are too restrictive. That
25 equipment can be kept clean would be sufficient.

1 And last of all, we don't feel that
2 goats deserve special treatment.

3 Thank you.

4 MR. MATHEWS: Just go ahead and go
5 back to the microphone, just in case you want to
6 say something back to me. Because what I want to
7 ask for is, you've listed off a lot of
8 suggestions --

9 MS. WIDEMAN: Right.

10 MR. MATHEWS: -- as to where the rule
11 can be improved from your perspective and from
12 the perspective of the people you represent.
13 What I need is not just something that says, this
14 is what needs to be changed. I need to know why
15 it needs to be changed, but I also need to know
16 how you would recommend rewording it.

17 MS. WIDEMAN: Jackie, have you got a
18 copy?

19 MR. MATHEWS: And I want as you do
20 this to keep in mind that the certifying agent
21 has to be able to enforce against this wording,
22 as does the USDA need to be able to enforce
23 against this. Because while everybody in this
24 room would comply, you'll probably find there's
25 people outside this room who wouldn't.

1 MS. WIDEMAN: Right.

2 MR. MATHEWS: So that's part of what
3 we wrestle with at the USDA is, what is the line
4 for what is enough versus not enough in order to
5 have enforceability? So just keep that in mind
6 as you're developing your comments for us.

7 MS. WIDEMAN: Right. Our comments
8 are so much like the food farmers that we
9 essentially can endorse those. And we have our
10 proposed changes.

11 MR. MATHEWS: And I would say the
12 same thing to them.

13 MS. WIDEMAN: Yeah. We recognize
14 that it has to be prescriptive enough, and we
15 think it's important, though, that certifiers who
16 certify livestock and certify dairy, have the
17 knowledge base to do so.

18 MR. MATHEWS: I fully agree.

19 MS. WIDEMAN: And we've come to
20 question it.

21 MR. MATHEWS: As have I. But
22 enforceability is a key to this.

23 Our next commenter, please.

24 MR. SIEMON: Mike Schulist, and then
25 after that is Cameron Genter.

1 MR. SCHULIST: Hi, I'm Mike Schulist.
2 I'm an organic dairy producer from central
3 Wisconsin, and I'm also marketing director for
4 WOMA, which is Wisconsin Organic Marketing
5 Alliance. And WOMA is a member of OFARM. What
6 I've got here is just a few statements prepared
7 by John (inaudible), the executive director of
8 OFARM and Warren Holly, the president of OFARM.
9 And I'll just go through them.

10 While OFARM appreciates the USDA
11 finally initiating action to address the industry
12 concerns about enforcement of the pasture rule,
13 we are deeply troubled by the many far-reaching
14 impacts of the new proposed language for the
15 other sectors of the organic livestock
16 production.

17 Consequently, we feel we will support
18 and request an extension of time to comment, so
19 these impacts can be more fully addressed by the
20 various stakeholders in the process. Listed here
21 are several areas of concern for our producers.

22 The proposed rule requiring fencing
23 of all of water bodies, streams, ponds, etc.,
24 would impose severe economic hardship on organic
25 cattle ranches, seriously overstep the generally

1 accepted principle of allowing cattle to pasture
2 in normal patterns of behavior.

3 And this pertains mostly to the
4 cattle producers out west on the range. Being if
5 they were to fence the waterways, I mean, 50,
6 60 acres of fencing could be pretty economically
7 stressful for them.

8 With any proposed rule there needs to
9 be a provision for regional variations to fit the
10 specific environmental and economic conditions of
11 the regions in order for organic production,
12 especially beef production to be sustainable and
13 profitable.

14 Just to separate it regionally, out
15 west and east of the Mississippi is a little bit
16 different way of farming.

17 Organic cattle producers have chosen
18 to gear their operation to provide for an organic
19 market demand for grain-finished beef, would be
20 faced with severe economic hardship if the
21 proposed language for access to pasture is fully
22 implemented. The addressed animal health,
23 welfare, and natural behavior requirements of the
24 existing rules, and if properly enforced meets
25 satisfaction of both accepted standards and

1 consumer preferences. The rules as proposed
2 would likely have immediate negative impact in
3 the volume of grain-fed beef production, which
4 could suddenly impact other organic sectors, such
5 as profitability of organic grain producers by
6 reducing demand for organic feed grains.

7 A phased in period to minimize the
8 impact of newly proposed rules and not pose
9 economic hardship is essential to allow producers
10 to adjust their operations to comply with the new
11 rules.

12 The rules as proposed appear to be
13 aimed to address concerns specific to dairy, but
14 not -- but do not necessarily lend themselves to
15 other types of livestock production. We doubt
16 that effective rules for dairy production could
17 ever meet the needs of pork production in a
18 one-size-fits-for-all rule.

19 In summary, it might be better to
20 encourage review of the current rules and
21 recommend a few needed clarifications to address
22 some specific abuses, rather than pursue this
23 knee jerk action on the part of the USDA.
24 However, we do recognize that this dramatic rule
25 change is proposed, and we may not have a choice

1 but to follow the issue and engage the process
2 with dialogue to come into its conclusion.

3 MR. GENTER: I'm Cameron Genter, and
4 I work for MOSA. And I'm here to represent one
5 of our farmers (inaudible) from Indiana. He's a
6 dairy farmer. He e-mailed us yesterday, and I
7 want to share his thoughts.

8 If the bedding, wheat straw, used on
9 our farm has to comply to the production rules
10 for organic feedstuffs, we will be confronted
11 with enormous extra costs, costs we cannot
12 absorb. On our farm we have a bedded pack
13 system. The animals are kept in a larger state
14 housing where they can wander free and find the
15 spots where they want to lay down freely.
16 Everything here is bedded daily with fresh straw.
17 Research has proven that the bedded packs are the
18 most comfortable for dairy cows. No problem with
19 things like swollen hocks or worse. This is the
20 reason why we build our facilities this way.
21 Because we have 24 hours feed available in the
22 bunk, the animals are not eating bedding, wheat
23 straw.

24 He goes on to talk about how his
25 costs -- or he usually gets his straw right now,

1 conventional straw, wheat straw, 40 bucks a ton.
2 And he says if the bedding has to be produced
3 organically following the newly proposed pasture
4 rules, it has to come from states like Nebraska
5 or South Dakota, and with the extra pressure on
6 the market, he's looking at 100 bucks a ton as
7 opposed to the 40 bucks a ton. And if you play
8 that out with a lot of cows, his costs of bedding
9 can explode from \$8,000 to \$36,000.

10 He goes on to say, we, and many
11 organic family farms cannot absorb these extra
12 costs. This will result in more animals on
13 concrete in organic farms and farmers forced to
14 leave the organic way of production. It will be
15 impossible to explain to the public that on
16 conventional farms the cows and calves are bedded
17 in nice straw, but at organic farms the cows and
18 calves are on bare concrete because affordable
19 bedding is for many organic dairy farmers not
20 available.

21 The animals are the first victims of
22 this pasture rule that is intended to assure
23 these same animals good living conditions in the
24 organic production system. Therefore, we ask the
25 National Organic Program rules to be changed in

1 205.239(a)(3), appropriate clean dry bedding,
2 when crop matter typically fed to animal species
3 is used as bedding, it must comply with the feed
4 requirements of 205.237.

5 And, lastly, he wanted to mention the
6 new pasture rules will be governing the way
7 organic farming has to be done for maybe the
8 coming 20 or 30 years. So it is of utmost
9 importance that these pasture rules are workable
10 for all well-intended organic farmers in the
11 whole nation. They should also promote
12 sustainability of farming and insure the best
13 animal husbandry. This could favor all involved,
14 consumers, producers, and all livestock kept
15 under these rules.

16 Thank you.

17 MR. SIEMON: Ed Schaller is next.

18 MR. SCHALLER: I'm Ed Schaller. I
19 live in Verona, Wisconsin. I'm a customer of you
20 people. I consume your organic milk. But also I
21 produce organic hay for the last 20-some years.
22 But my hay is not certified, but that's a moot
23 point.

24 I am not in favor of organic cattle
25 having to be on pasture. I think you're ruling

1 out the opportunity for good dairymen to start
2 with an empty barn that is sitting there, taking
3 good care of their cows organically, purchasing
4 and/or hauling in the feed to maintain an organic
5 herd. I think you're disadvantaging the young
6 guy trying to start out. And I really don't care
7 if that cow is on grass or not. I want her to
8 have the organic style feed. But being on
9 pasture or in good confinement makes no
10 difference to me, and my dollar.

11 You know, I've drank milk in Arizona
12 from Shamrock Farms, and that's a confinement.
13 And that is organic, and that's just as good as
14 anything I get here. And when you talk about the
15 cost disadvantage of a small farmer, compared to
16 the cost of a large farmer, I priced my organic
17 milk locally this morning. Organic Valley, it
18 was 6.69. Horizon was 5.99. And a store in
19 Madison was selling new organic milk from a Happy
20 Cow Dairy setup just started in Dane, Columbia
21 County, for 4.99. And they are a very small
22 operation. So I'm not sure that the bigness
23 alone is creating the lower prices. It might be
24 more management than anything else.

25 Thank you for your time.

1 MR. HUGHES: Hi, Richard. Thank you
2 for coming to Wisconsin. Thank you for listening
3 to farmers. I'm no bureaucrat, so -- I wanted to
4 give you the card for the reporter.

5 And my name is Will Hughes. I'm
6 administrator of the Ag Development division of
7 the Department of Agriculture, Trade and Consumer
8 Protection. We've been in the organic business
9 for a while. We were directed by our legislature
10 at one time preceding the federal law to develop
11 organic standards. And George Siemon and Harriet
12 Bayhar (phonetic) and some others in this room
13 were involved in developing those. But we're
14 glad that Organic Valley is hosting and you're
15 listening.

16 I'm assuming that written comments
17 are as substantive in weight in terms of your
18 consideration as verbal, or oral comments; is
19 that right?

20 MR. MATHEWS: Oh, yes. The verbal or
21 the written are looked at the same.

22 MR. HUGHES: By coming today you've
23 caught Wisconsin one day early in terms of an
24 institution that we've created. It's called the
25 Wisconsin Organic Advisory Council. It's a

1 12-member advisory council. Harriet and Jerry
2 and George are co-chairs of that. And we will be
3 meeting tomorrow, and not that our comments will
4 have any more weight than farmers who have to put
5 the rubber on the road, we will try to give you a
6 good read on the consensus of this matter.

7 And Wisconsin, you know, is the
8 number one state in dairy and livestock farms.
9 Our government, governor, secretary support that.
10 We think, as you've heard, the rules look like
11 they overstretch a bit, and I think the comments
12 that you'll get from our organic advisory council
13 will reflect that, and our department will
14 support that.

15 And I think that, looking at your
16 proposed rule, making a couple of things to
17 comment on. One is the conclusion that there
18 would be -- I think it's called minimal economic
19 impact on the small businesses as you're required
20 to analyze. I think that's quite wrong, based on
21 what we've heard and basic common sense.

22 And then, secondly, I think the way
23 this rule was promulgated, you know, people
24 focused on the pasture part, but there's a lot of
25 other important pieces in that rule that people

1 may miss because they think it's pasture rule
2 only. So we'll be forwarding comments.
3 Hopefully that will help you get what you need to
4 do, is to move down the road to refine and tweak
5 these rules so they'll work for working farmers
6 in Wisconsin and elsewhere.

7 Thank you.

8 MR. MATHEWS: Will, you mentioned
9 that the economic impact is greater than what we
10 projected. And are you going to be submitting
11 follow-up to that comment?

12 MR. HUGHES: That's a tricky one, you
13 know. The economists do modeling to come up with
14 that. I don't know as we'll have time to do
15 that. But we will get to it in the best way
16 possible and speak to it directly. We won't
17 probably have an economic analysis.

18 MR. MATHEWS: Okay. But I need
19 something a little more than, we missed the boat,
20 because --

21 MR. HUGHES: I understand.

22 MR. MATHEWS: -- I need to know where
23 it was we missed the boat and how we missed the
24 boat. And I guess if it was tied into something
25 you wanted to have changed, then maybe your

1 recommendation fixes that. But I really would
2 appreciate a follow-up that gives me a little bit
3 more specificity than to say we missed the boat.

4 MR. HUGHES: I understand. Thank
5 you.

6 MR. MATHEWS: And let me give you one
7 of my cards.

8 MR. SIEMON: All right, I'm next.
9 Since I'm the keeper here. Is it Danny Schwartz
10 from Bangor? Then Aaron Brin. So Danny is after
11 me here.

12 Well, I'm here, I guess, as a person,
13 George Siemon, and I'm certainly (inaudible)
14 toward their standards, but I am a beef farmer
15 and a chicken farmer, and this rule actually
16 affects my farm in quite a few different ways.

17 But first I just wanted to say how
18 thankful I am that NOP has got some adequate
19 funding. I've always thought NOP had just a huge
20 job for the staff they had, and I think part of
21 the problem this rule is trying to address is
22 some of the shortage of resource you all had. So
23 I really appreciate that you're getting more
24 resources. But I am concerned that quite a few
25 parts of the rule are a response to the lack of

1 resources that you've had in the past and the
2 lack of a relationship with the certifiers as to
3 what is the common understanding so you can
4 enforce, they can enforce. And I feel like
5 there's a relationship between the certifier and
6 the NOP that needs to be addressed that this rule
7 in part is addressing. So consistent (inaudible)
8 is the key, and we had -- you know, at your
9 presentation you said, well, people were
10 interpreting it this way, interpreting it that
11 way. And so I'm real concerned that we're trying
12 to take care of it in the rule place versus other
13 things.

14 And one of the things I've really
15 been concerned about since USDA did get involved
16 is the loss of the farm plan in the sense of our
17 enforcement. And the farm plan has always been a
18 huge part of certification. We all get inspected
19 every year, and the inspector roughs us up, finds
20 things that aren't right. The certifier comes
21 back and says, what are you going to do next
22 year? There's this whole dynamic that's very
23 positive. It's constant improvement, continued
24 improvement. And I think that's something we
25 need to find a way to get back to in the NOP

1 ruling is how to get the farm plan more active
2 and more the way we deal with things. Because no
3 matter what we write, the specificity, we're
4 never going to get away from the farm plan
5 answering the basic needs.

6 So we certainly support the
7 30 percent, or 70 percent, however you look at
8 it. But no matter how you -- what record keeping
9 you do, you're still going to have nature and
10 reality step in and throw curve balls at you. So
11 it's a concern to me that farm plan shows how
12 you're going to do it, and then we have to deal
13 with the reality of what you deliver. Because
14 we've had two floods here in this region that
15 disrupted all the pasture plans, and we've had
16 droughts in other parts of the region.

17 So I'm real concerned about the
18 standard versus how it's implemented with the
19 farm plan. So I just really want to make sure
20 that -- how can we bring the farm plan into this,
21 and I'm just afraid that specifics is not the
22 right thing that we're getting to. We're all
23 supporting 30 percent. And I don't support the
24 dry matter formula. It's too narrow. There's
25 too many different cattle out there, too many

1 different ages. And so that part is -- that's
2 what belongs in a rule or a guidance -- not a
3 rule, but in a guidance or manual. And that's a
4 theme I'll come back to, is the guidance and
5 manual.

6 Most rules, being a business person,
7 now you have a law, you have a rule, and you have
8 manuals and guidances. For whatever reason NOP
9 has elected not to have manuals or guidances, so
10 there's no guidelines for the certifiers out
11 there. There's only the rule itself. And so
12 most every other law I deal with has a manual.
13 So I've not understood why -- I think it's been a
14 lack of resources. I think we need to have a lot
15 more guidances versus rules that could
16 inadvertently hurt somebody. So I'm really an
17 advocate for manuals and more guidance to assure
18 uniform implementation by the certifiers.

19 And, you know, going back to the
20 specifics, you know, when Bill Welch and I
21 were -- several of the rulings you changed, Bill
22 and I helped write, which is all right. You
23 always do better as you go along. But,
24 nevertheless, some of the specifics, like we had
25 clean water. Now you have, clean your water once

1 a week. To me that's a monstrous -- really, it's
2 the biggest issue in the whole rule is that kind
3 of framework from going to -- from outcome to a
4 specific like that. And it really worries me
5 about the future if we start allowing that kind
6 of specificity into the rule, where it will lead
7 us to in 20 years.

8 And so providing goats shelter is
9 enough. You don't have to say, three-sided. You
10 know, that's a big, big question to me, is going
11 from that broad outcome to the specifics.

12 Because organics is very broad, and
13 pasture is very -- it's just one component.
14 Some, you read this, and like pasture has become
15 the definition of organics. It's not the case.
16 Organics is very big. It has a lot of angles to
17 it. And organics does not mean grass fed.
18 That's a whole another rule, another law that's
19 being dealt with in other sectors.

20 My biggest concern specifically with
21 what you have is the year-round. I don't think
22 year-round belongs at all in this, year-round
23 grazing. Both things you'd hear here, the care
24 of the land, care of animals, and it just -- the
25 animal well-being part.

1 And the sacrificial pasture, I just
2 tried to imagine that, and I just can't imagine
3 how it could work. Because any sacrificial
4 pasture could be ruined in just a day or two of
5 bad weather, and there you are stuck with that.
6 And where is your next one and your next one?
7 And pretty soon it gets impossible. So
8 sacrificial just doesn't work.

9 And, of course, the biggest thing
10 about the year-round, whether it was meant to be
11 or not, was it specifically wiped out the
12 traditional dairy farmer in Wisconsin with tied
13 stalls and stanchions. It's kind of an unspoken
14 thing, but there's a huge effect to everybody
15 here.

16 We do finish cattle on my farm. So
17 the grain, we do grain-fed finish. And I think
18 that the 30 percent is really telling the
19 consumer what they can buy and not buy. And
20 that's not the case of organics. If they want
21 grain-fed animals, they should have grain-fed
22 animals. If they want grass fed, then there's
23 that market, too. So beef animals are the most
24 pasture based part of organics or agriculture
25 there is, besides that final finishing period.

1 The straw is a real tough one. And
2 we -- I listened to several conversations, and
3 there are actually people out there that feed
4 straw. So I can understand how -- where you've
5 got to where you've got to. But (inaudible) is
6 one of your classic, I'm going to produce all the
7 manure I can with deep bedding, and because he is
8 not feeding straw. And so, you know, it's really
9 tough. We allow conventional manure and all
10 kinds of things. So I still support the straw
11 coming from conventional sources. But I can see
12 how they couldn't feed straw ever either, because
13 there are people that feed straw to dry cows,
14 force feed them through their rations. So I
15 understand that part.

16 The replacement rule, obviously we
17 want one rule. Once you enter -- it's just
18 outrageous there's not one rule -- once you
19 enter, you should all play by the same rule book.
20 Well, obviously bulls are kind of aside. I
21 understand that issue. But bulls are not what
22 we're talking about. We're talking about milk
23 here. Milk's what's on the certificate. And I
24 certainly agree wholeheartedly with what you said
25 earlier. You must allow converted cows to

1 transfer from farm to farm. That's obvious.

2 Those cows have reached the status. They have to
3 be able to go from farm to farm, and that has to
4 be part of any replacement rule.

5 I think the proposal you have wanders
6 into other worlds. Fencing off rivers is to me
7 something where there are other laws that take
8 care of that. It doesn't need to be an organic
9 law. We need to stick to the word organic as
10 much as possible. And I would have to fence off
11 my pasture.

12 And I just think that overall, I just
13 really think that the specificity here goes
14 against what has really been the foundation,
15 which is the farm plan. And I'm not -- I don't
16 think the monthly documentation is really
17 required. I think it's all about the inspector
18 and the farm plan and the dynamics there. And
19 going back to -- to me it's about the certifiers
20 overview that you all have and how they're doing
21 their job. What is their specificity, I guess,
22 that you have with them, so to speak?

23 So I'm really worried about this
24 foundation. In 20 years somebody else will be
25 building on what we have here, and where does

1 that go? I'm really concerned to hear -- I've
2 tried to ask, what if you don't do the
3 30 percent? What if there is a drought and all
4 that? Is there -- I haven't found necessarily in
5 the law that provision for the droughts and
6 floods and winter kill and all the reality that's
7 out there.

8 And my last comment is about NOSB.
9 Some of the things, you went against NOSB. Some
10 were with them. I just -- as you know, I've
11 always said NOSB and OP need to work together as
12 much as possible when doing things so the
13 standards that come out have covered everything.
14 So I encourage you to keep looking at NOSB.

15 MR. MATHEWS: Okay. The issue you
16 brought up about drought, there is a provision
17 within the regulations for temporary variances.
18 And I see that provision coming in play in the
19 event somebody wasn't able to hit the 30 percent.
20 What we need to keep in mind is that the
21 30 percent, and that's proposed, is not on a
22 daily basis. It's an average number over the
23 grazing season. But if you had a drought that
24 was declared by the Secretary of Agriculture, and
25 it was part of the organic system's plan -- I

1 mean, the drought wouldn't be a part of the
2 organic plan -- but the plan shows how you're
3 going to provide the requirements of hitting the
4 30 percent. And if for some reason nature
5 stepped in and stopped you from doing that, I can
6 see where the temporary variance would be allowed
7 so that we don't put that farmer out of organic.

8 So -- and I've heard a couple times
9 about, listen to the board. Actually we did
10 listen to the board, I think. And I don't want
11 to sound like I'm debating the issue. But part
12 of the issue is that there was the forum that was
13 held on the ANPR for pasture, and then there was
14 also the symposium that was held. And where we
15 did not accept what the board had, that was based
16 on comment that we had received previously. So
17 we did take the board's comments very seriously.
18 In this particular situation we took the
19 commenters, and went with what they had said.

20 Now, as you know from the first
21 rulemaking process with two proposed rules and
22 the final, things do get reversed. And, you
23 know, commenters say one thing. We say, okay,
24 well, we thought it -- we would go with the
25 commenters. But then once we did that, then

1 additional comments came in the next time around
2 and said, whoa, whoa, whoa, wait a minute. You
3 got it all wrong. So, I mean, it's not getting
4 concrete yet. We'll still listen to more
5 comments.

6 MR. SIEMON: That's why you're here,
7 and that's why we're here.

8 MR. MATHEWS: That's why we're here,
9 to hear the comments.

10 MR. SIEMON: All right. Danny
11 Schwartz, Aaron Brin and Jennifer Hall.

12 MR. SCHWARTZ: My name is Doug
13 Schwartz from Bangor, Wisconsin. I'm a dairy
14 farmer. I currently ship with Westby. It's a
15 Co-op.

16 I'm just going to touch on a couple
17 of the rules. There are several that have
18 already been addressed to my satisfaction. One
19 of them is the waterway restriction. Restriction
20 to ruminants from the waterways. If -- like, for
21 instance, on my farm, my creek runs through the
22 middle of the farm, right -- splits it right down
23 the middle. And half of my pasture access, half
24 of my crop land access, in fact even more than
25 half, is on the opposite side that the buildings

1 are on, okay. Now, you could say, well, you
2 could fence it, get them across the bridge, get
3 them over there. Not according to the DNR. DNR,
4 Wisconsin Department of Natural Resources says,
5 no, I have to run them through an access area,
6 which we have provided. But they don't want us
7 to -- I mean, they'll still have access to that
8 water. I mean, they're going to go into that
9 water. I got no way to cure that. I'd be in
10 violation of their rules if I followed the
11 Organic rule, as I understand this proposal.

12 MR. MATHEWS: Okay. Let me put some
13 questions to you. Your Department of Natural
14 Resources is requiring that you allow them to
15 walk through the stream to get to the other side.

16 MR. SCHWARTZ: Right. They don't
17 want a bridge. They want this crossing, as they
18 call it.

19 MR. MATHEWS: Okay. That would not
20 be prohibited under this program as proposed.

21 MR. SCHWARTZ: It wouldn't?

22 MR. MATHEWS: No, it would not be. I
23 mean, we would still allow you to walk them
24 across. What we're concerned with is the pond or
25 the stream where they're standing out and

1 relieving themselves and the unfettered access to
2 the water. Because there's provisions within the
3 regulations that require that you have to protect
4 the soil and the water. And what we're looking
5 for there is, you got a pond or you got a stream,
6 to minimize the opportunity for them to get in
7 it. Now, what we're talking about is a way for
8 them to get onto the other side. Now, has the
9 DNR addressed the issue of the rest of the
10 stream?

11 MR. SCHWARTZ: Yes. That was my next
12 point.

13 MR. MATHEWS: Okay.

14 MR. SCHWARTZ: The thing with fencing
15 the entire creek, which could be done, but they
16 still would like me to have access, intermittent
17 access, as long as it does not erode the
18 streambanks. And because if we don't, it totally
19 grows up in brush, and they don't have their
20 fishing habitat like they want. And as, at least
21 the people that were working with me said, we
22 would rather have it rotationally grazed, just
23 not total accessed at a hundred percent of the
24 time. And, now, I could follow that. But to
25 totally eliminate them from it, then we have a

1 creek running down the middle of my property
2 that's solid brush, and kind of defeats some of
3 the purposes. And the water ponds before the
4 creek doesn't drain well. A lot of things happen
5 with that.

6 MR. MATHEWS: Okay. What I would
7 like is, if you've got the time, to provide me
8 with a little more detail on that. I appreciate
9 your comments on that.

10 MR. SCHWARTZ: Sure.

11 MR. MATHEWS: We're not trying to
12 violate any state's rules on this. Quite to the
13 contrary, we're trying to help make sure we are
14 good stewards of the water, which is what the
15 state wants as well.

16 MR. SCHWARTZ: And I really think
17 it's kind of a double whammy. And I think that
18 was addressed before. Other -- the DNR, the Soil
19 and Water Conservation, they're all covering that
20 particular aspect already. Now for another
21 agency of the government to go and cover it
22 again, just does seem like overkill.

23 MR. MATHEWS: Okay.

24 MR. SCHWARTZ: Another thing I wanted
25 to address is on confinement rule, the

1 restriction that 365 days, other than milking,
2 that they're supposed to be able to have access
3 to the outdoors, with the exception of inclement
4 weather, was one of them. Okay. The thing that
5 I think is really open to interpretation is,
6 inclement weather. I think here is where you'll
7 have one certifying agency saying inclement
8 weather is, maybe in this part of the country,
9 wintertime. Well, that didn't get you much on
10 your rule.

11 MR. MATHEWS: Right.

12 MR. SCHWARTZ: Okay. In another part
13 they might -- or another certifier would say,
14 hey, 20 blow zero, or whatever. And there's
15 arguments both ways where you could say, okay,
16 damage could be done permanently to the cow,
17 frozen teats, things like that, in weather such
18 as we've got right now. And another one could
19 say, well, you know, the cow didn't die
20 immediately. No, she got pneumonia and died
21 later, or she got mastitis and died, you know,
22 from that.

23 So I mean, there's argument both
24 ways. And to put it in here as such, I think
25 what it's going to do is it's going to end up

1 with, you'll have -- which is what's happening
2 now -- some of the larger confinement setups
3 picking and choosing certifiers that will do what
4 they want. And I think we need consistency. I
5 think -- and I think that's what you're trying to
6 do, but I don't think that particular rule
7 actually does it.

8 Either -- and you wanted specifics as
9 how to change it. As far as changing it, you
10 would either have to, in my opinion, somehow have
11 a way that is a universal interpretation.
12 Whether it be like the man said, a manual,
13 something where the rule that you have is
14 actually interpreted the same with all of our
15 certifiers all across the country. Otherwise, it
16 actually favors different parts of the country,
17 depending on what our climate is, and I don't
18 think that's really fair. So that's my opinion.

19 MR. MATHEWS: Yeah, we're not looking
20 to favor any one geographic location over
21 another. And this idea of what is inclement
22 weather is a huge, huge obstacle to try and get
23 over. I mean, because it's not just the snow and
24 ice that you may have here and the cold weather,
25 but there are other areas where temperature and

1 humidity become factors. And how do we determine
2 what is the temperature and humidity combination
3 that justifies somebody not putting their animals
4 out on pasture?

5 MR. SCHWARTZ: And I'm actually more
6 afraid of what would happen if it was enforced to
7 the extreme, I'd have to do bad animal husbandry.
8 In other words, the animals would have to suffer.
9 I wouldn't blame the animal rights people at all
10 for saying, why are your cattle out there
11 suffering?

12 MR. MATHEWS: Well, we definitely
13 don't want to do that.

14 MR. SCHWARTZ: Right.

15 MR. MATHEWS: I mean, there are
16 provisions within the regulations that require
17 the farmers --

18 MR. SCHWARTZ: I know.

19 MR. MATHEWS: -- to protect himself.

20 MR. SCHWARTZ: Like I said, too much
21 is open to interpretation.

22 MR. MATHEWS: Yeah. Well, I
23 appreciate those comments. And if you have
24 anything else later that kind of helps -- you
25 know, if you get an idea driving home tonight

1 that says, you know, I should have told him this,
2 I would be glad to receive it. That issue on
3 weather is a really sticky one.

4 MR. SIEMON: All right. Aaron Brin
5 and Jennifer Hall.

6 MR. BRIN: My name is Aaron Brin.
7 I'm from Gays Mills, Wisconsin. My wife and I
8 have a certified organic farm. We grow mostly
9 vegetables. We do greenhouse plants, we do
10 forage and grains. We have a certified organic
11 pasture that we rent out. We are also
12 beekeepers. And I did have a couple of comments.

13 First of all, thank you very much for
14 coming and listening to us. That's -- I think we
15 always all appreciate that our government is
16 listening to us. Thank you.

17 The first comment would be about
18 beekeeping. I appreciate that you've laid the
19 foundation for agriculture standards by this
20 definition of bees as livestock. I want to
21 comment, however, that the way you have it
22 written, as a bee being the unit of livestock is
23 not -- it doesn't really make sense in terms of
24 beekeeping, because a single bee cannot live on
25 his or her own. It -- really the unit should be

1 a colony of bees. Bees can only exist with comb,
2 with others. They would only really be alive for
3 a very short period of time outside of the
4 colony. So I would like to see that definition
5 changed. It just doesn't make sense to me the
6 way I read it.

7 The second reason I'm up here
8 speaking -- and I was going, why am I up here
9 again? This is crazy. Too much -- you know, too
10 nervous. But, anyway, I --

11 MR. MATHEWS: It's a friendly crowd.

12 MR. BRIN: Yeah. I had a very, very
13 strong emotional reaction, I guess you would say,
14 to the idea of a sacrificial pasture, and I did
15 feel that I needed to say something about it. As
16 such, I believe that you wanted a sacrificial
17 pasture to deal with saturated soil conditions,
18 and you've created this because you want animals
19 to be out on pasture year-round, which is a
20 commendable goal, but there are these issues and
21 these problems. And for me as an organic farmer,
22 as someone who's tried very, very hard to build
23 soil and build soil fertility, and to be really
24 concerned about soil, I feel it's just -- goes
25 against the grain of what an organic farmer is to

1 have to sacrifice land. And I believe that
2 consumers also would think of organic farmers as
3 people who protect these precious resources. And
4 I don't really have an answer for another way of
5 doing this, but I just felt so strongly about it
6 that this -- this type of solution should not
7 belong in the organic standards, and I would urge
8 you to think about other ways of dealing with it.

9 MR. MATHEWS: Just a follow-up
10 comment of my own on your comment. You're right.
11 I mean, we are looking for a way to keep the
12 animals out on pasture. And our experience has
13 been that in some places a fraction of an inch
14 was used as justification for not putting animals
15 on pasture when there was really no logical
16 reason why they couldn't be on pasture. And so
17 that was the genesis of coming up with the idea
18 of a sacrificial pasture. And so if, as you're
19 driving home, you get an idea how we can address
20 this further, I'd be glad to hear it. Thank you.

21 MR. BRIN: Thank you.

22 MR. SIEMON: Jennifer Hall, then Jim
23 Goodman.

24 MS. HALL: Hi, I'm Jennifer Hall.
25 This is Katherine. You've seen her running. I

1 have a 36-cow dairy herd about 20 miles southeast
2 of here. And, quite frankly, I'm concerned about
3 things that many of our speakers so far have said
4 about the specificity of some of these rules. I
5 just can't fathom how you can expect people to
6 pasture, particularly in a winter where we had
7 last year when the highs weren't even above zero.
8 I mean, my barn -- I'll spend all day thawing
9 water pipes, and I'm sure many of the folks here
10 would do the same.

11 I think -- I can't speak for everyone
12 here, but I can speak for myself, that I would
13 about rather die than have anything bad happen to
14 my animals. And, frankly, before she came along,
15 she was -- the cows were my children. And I feel
16 that with some of the recommendations that your
17 committee has made that it just is beyond what's
18 practical and reasonable to accomplish in any
19 reasonable amount of time.

20 I'm a former employee of the USDA,
21 and I can speak from a little bit of experience
22 in which common sense and moderation seem to go a
23 long ways in easing relations between farmers and
24 government employees. And it seems to me from
25 listening here today that the common sense has

1 left the building here.

2 And I understand that the goal of the
3 USDA -- and you are to be commended for the hard
4 work that you put into this -- but I don't feel
5 that the end result is really doable, frankly.
6 And I ask that you consider, and reconsider, and
7 reconsider, as you consider and reconsider these
8 points, that you take into account what people
9 are doing on a day-to-day basis.

10 And I can frankly say, figuring out
11 by a formula every month based on what my cows
12 are eating every day is pretty much going to be
13 at the bottom of my list. And I think to expect
14 people to do that, when they're doing their best
15 to do the very best that they can for their
16 animals on a daily basis, I think is
17 unreasonable.

18 So I just ask that you consider that
19 as you mull over the propositions that you've
20 made here today. And thank you for the
21 opportunity to speak.

22 MR. SIEMON: Jim Goodman, then
23 Virginia Goeke.

24 MR. GOODMAN: I'm Jim Goodman. I'm
25 an organic dairy farmer from Wonewoc, Wisconsin,

1 and my milk goes to Cedar Grove Cheese in Plain.

2 I guess this whole rule process was
3 brought to light because of what Mark Kastel
4 addressed in one sense. There's some differences
5 between size of operations and some of the ways
6 that they find to operate within or around the
7 rules.

8 I think anyone here that's an
9 inspector probably knows that depending on the
10 farm you're going into, you're probably looking
11 at different things. Going into one of the
12 average farms that we've heard represented here
13 today is probably a lot different than going into
14 a farm where they have three or four or five or
15 ten thousand cows. It's just a completely
16 different situation, and I think the inspectors
17 are trained to look at that sort of thing.

18 But there's a certain amount of
19 inconsistency in some of these proposed rule
20 changes because you're in one sense saying you
21 want to have rules that cover everything that are
22 hard and fast, but in other senses you're doing
23 the exact opposite. You're talking about large
24 dairies versus small dairies, and I guess
25 specifically about, in the Origin of Livestock,

1 you're establishing two separate tracks. Well,
2 that's not a hard and fast rule that applies to
3 every situation. And there's been some
4 expression of the fact that you can't sell cows
5 that were converted under one rule to a farm that
6 converted to organic under the other rule.

7 Well, when I was certified, it took
8 me ten years before I could sell my dairy cows as
9 organic beef, because of the age requirement.
10 They had to -- they were just certified in and
11 they couldn't become organic beef. I lived with
12 it. And in many respects that's more of an
13 economic burden than selling replacement animals.
14 Because almost already every dairy cow eventually
15 goes for beef. Not all of them go for breeding
16 animals. I just had to live with it.

17 A couple things are also kind of
18 confusing. Year-round -- how do you express it?
19 Continuous year-round management on pasture.
20 Well, that may work fine in southern climates,
21 but as we've heard, it's probably not an option
22 here. Am I supposed to drive my cows
23 through three feet of snow to get to pasture in
24 winter? How do you define pasture? What's
25 grazing? Can they graze through three feet of

1 snow? Now, if you're saying it's wrong for a
2 dairy operation in Arizona to have cattle on a
3 dirt lot because it's not pasture, how can you
4 say that a farmer in Wisconsin has to have his
5 cattle on a piece of ground that's covered with
6 three feet of snow? It's kind of an
7 inconsistency.

8 And, again, you can't write one hard
9 and fast rule for every operation. That's why
10 you have inspectors, that's why you have
11 certification agencies to make the determination
12 if those farmers are farming within the confines
13 of their climate, their region, and still
14 maintaining organic integrity.

15 Another problem I have is -- and most
16 people, especially the last speaker, expressed
17 the dry matter intake. Nothing more than an
18 excessive burden on people that practice managed
19 grazing. Any inspector that's been on a farm
20 that does managed grazing knows that the cows are
21 getting probably a minimum, and in some cases one
22 hundred percent of their dry matter from grass.
23 Now, if they go on a farm and there's a TMR mixer
24 sitting there that's obviously being used, they
25 may need to do a little more investigation to

1 find out what they're actually doing.

2 Most inspectors are going to compare
3 winter ration versus summer ration, and that's
4 all part of the organic plan. But making farmers
5 calculate -- which could be on a daily basis --
6 the dry matter intake is an excessive burden that
7 in most situations makes no sense whatsoever.

8 So I guess that's really all I have,
9 other than the fact I think USDA has to realize
10 that most certification agencies have a very
11 qualified pool of inspectors that know the farms
12 they're inspecting, know the difference in
13 operations, and are able to make a much better
14 determination than any rule. Some of these
15 practices that you have, probably would fit well
16 into guidance, but certainly not at rules. Thank
17 you.

18 MR. MATHEWS: Just a little follow-up
19 on that. Just for a clarification, the 365 days
20 on pasture was not for the purpose of grazing
21 pasture for the full 365 days if there's three
22 foot of snow. The idea is that the animals were
23 outside during the nongrazing season as well as
24 during the grazing season. That was the intent
25 there. And maybe there still needs to be some

1 work done there.

2 One thing that we would be looking at
3 is not requiring them to be in the three foot of
4 snow, but the idea was still they would be
5 outdoors during the nongrazing season, not in the
6 barn for 245 days out of the year. That was the
7 intent.

8 MR. GOODMAN: Well, the way it reads,
9 it says, managing on pasture 365 days a year.
10 And, obviously, like I said, that can't apply
11 everywhere. Most farmers do turn their cows out
12 under certain conditions. But at 40 below, I
13 don't care who tells me to turn my cows out. I'm
14 not going to do it, because they're going to
15 freeze their teats and they're going to have all
16 sorts of problems.

17 And I think you need to clarify
18 things to the point where people can understand
19 what it says. And if people look and they say,
20 I'm supposed to have my cows out 365 days a year,
21 that's maybe what they're going to believe.

22 MR. MATHEWS: Okay. I'm trying to
23 find the slide that addresses that. Yeah, this
24 is what I was trying to explain. That it
25 continues on down, and we fully address it. And

1 probably the problem is the disconnect between
2 where it talks about the 365 days, versus here
3 where we talk about grazing throughout the
4 growing season and access to the outdoors
5 throughout the year. That's the purpose of being
6 on the pasture for the 365 days.

7 MR. SIEMON: But the alternative is a
8 dry lot or a feedlot, and you prohibited it. How
9 could you not see that as --

10 MR. MATHEWS: Right.

11 MR. GOODMAN: Is my exercise yard
12 behind my barn prohibited because it's dry?
13 That's where the cows go, because that's much
14 better than walking through three feet of snow,
15 you know.

16 And, furthermore, I think somebody
17 else mentioned it too, you specified goats as not
18 having to go out in bad weather. Are they that
19 delicate that we have to have special rules for
20 goats or --

21 MR. MATHEWS: Actually they are.

22 MR. GOODMAN: I'm sure they are, but
23 cattle are delicate, too. You know, and I guess
24 maybe overall it looks like you're trying to --
25 it implies to me that the certification of the

1 facility is more important than the certification
2 of animals. And that can imply to the
3 replacement situation, too. They both have to be
4 certified. One is neither more or less important
5 than the other. But once you've got a bunch of
6 buildings that are certified, that really doesn't
7 mean much. It depends on how you take care of
8 the animals that run through them. And I think
9 the rules have to express that clearly so people
10 understand that.

11 MR. MATHEWS: Okay.

12 MR. SIEMON: Virginia, and then Roger
13 Peterson is next.

14 MS. GOEKE: My name is Virginia
15 Goeke. I want to thank, first of all,
16 Mr. Mathews for coming, and for the USDA for the
17 opportunity to speak.

18 We run a diversified farm just
19 outside of Viroqua, which is about 12 miles from
20 here.

21 MR. MATHEWS: Drove through it
22 earlier today.

23 MS. GOEKE: We have a micro dairy.
24 We have a grass-fed beef herd. We also raise
25 sheep, poultry and pigs, all out on pasture. I

1 might be your only friend here today.

2 I guess I'm going to speak from the
3 standpoint of not just myself as farmer, but I'm
4 a farmer who direct markets all of the food that
5 we raise on our farm. So each and every day I
6 have an opportunity to speak with the people who
7 are interested in the type of food that we raise.

8 What I can say is that, by and large,
9 every family that comes to us for food is looking
10 for food that has integrity and meaning. When
11 they are considering buying organic food, I
12 believe that they have a certain set of
13 expectations, and I do believe from what I'm
14 reading in this proposed rule that it's going to
15 bring certified organic meats and dairy closer to
16 what the consumers' expectations are.

17 Now, as a farmer I understand the
18 challenges that this will bring, but what I can
19 tell you is we manage our dairy cows and our beef
20 cows and our sheep and our hogs out on pasture
21 year-round. Yes, we deal with some frozen hoses.
22 Yes, we deal with some frozen water tanks. Yes,
23 we deal with a lot of the issues that were
24 brought up here today. But I will tell you it
25 can be done. Just like any other part of

1 farming, none of it's easy, and none of us is
2 doing it because it's easy.

3 I will say that the exclusion or the
4 prohibition of the dry lots and the feedlots, I
5 will have to say that I feel strongly that that
6 is the correct way to go, not only from the
7 standpoint of, I believe, it's a more natural
8 diet to have the cows eating a forage-based diet,
9 as opposed to a grain-based diet, but also again
10 because that's the expectation that a consumer
11 has for an organic meat or dairy product. They
12 do not have the expectation that it was raised in
13 a feedlot or finished in a feedlot.

14 However, as a sheep producer, I'm
15 going to critique you on the -- I don't have the
16 exact wording written down -- but the exclusion
17 of newborn to six months in confinement, so not
18 needing pasture. And what I'm going to tell you
19 is the lamb is six months old when it's taken to
20 butcher. So from the way I read this, is you
21 would allow a lamb to be raised in confinement
22 its entire life, and so would never have to have
23 eaten a blade of grass or been on a pasture at
24 all prior to it being harvested for meat. I
25 don't agree with that.

1 I think perhaps being more species
2 specific for that particular rule. There's no
3 reason the lamb can't be out on grass way earlier
4 than six months of age.

5 MR. MATHEWS: Can you recommend a
6 point at which they should be?

7 MS. GOEKE: I can speak from what we
8 do on our farm, is that they're born out on
9 grass. They're born on the pasture. Now, I
10 realize that most sheep people don't do that.
11 They have them born inside. I can tell you that
12 we have them born timed to the grass season,
13 which for us here would be about mid to late
14 April, into the first part of May. That's when
15 the grass starts to green up. That's when we
16 time our lambing. We don't have them lamb in
17 January because that would be signing a death
18 warrant to the lamb in terms of being born
19 outdoors.

20 I don't know if that's helpful at
21 all, but I would just say, you need to explore
22 that six-month rule as it applies to sheep, and I
23 would say goats as well, having a similar rate of
24 gain, rate of growth before they're butchered.
25 You know, of course, with beef cattle it's more

1 like 18 to 24 months before they're butchered, so
2 perhaps the six months would be more applicable
3 to bovines.

4 Under the opportunities to deny
5 pasture, I didn't see anything for weaning or
6 sorting as temporarily needing to restrict or
7 confine the animals away from pasture. I don't
8 know if that's something that is addressed
9 elsewhere. There are farmers who use a more
10 confining situation when they're weaning animals
11 away from their mothers. And --

12 MR. MATHEWS: Are you talking in
13 terms of the sheep again?

14 MS. GOEKE: Either with sheep or
15 calves. You know, I think livestock producers
16 might want that addressed. Again, the idea of
17 when farmers are sorting animals, that that again
18 might be a reason to temporarily confine, sorting
19 for either selling to, taking to the butcher or
20 selling off the farm.

21 MR. MATHEWS: Okay.

22 MS. GOEKE: I would also request that
23 you extend the comments period, and also suggest
24 within that extension of the comment period to
25 consider the idea of listening sessions that

1 involve the consumer base. I think that, you
2 know, we've got the farmers here, which is very
3 important, of course, but I think we -- the USDA
4 should appreciate also having some feedback from
5 the people who are the end users of these
6 products. Because I think when you have a direct
7 connection with consumers, and I definitely do as
8 a direct marketer, you get to learn what their
9 expectations are as they're searching for the
10 product that they consider as healthy not for
11 themselves only, but for the environment.

12 I believe that some of -- a lot of
13 what I've come to understand from this proposed
14 rule, I believe would bring organic into -- it
15 would lead closer to a sustainable system, as
16 opposed to where it is right now. And I believe
17 it would bring it closer to what the consumer
18 expectations are. I'm not saying it's perfect,
19 but I am saying it appears to be a step forward
20 from where it has been.

21 I, again, have a unique perspective
22 because I spent about 24 months of my life
23 working for an organization in creating standards
24 for certification programs for a grass-fed
25 producers organization. And enforceability is a

1 big issue. We came up with the idea, it had to
2 be a hundred percent grass fed, because you can't
3 enforce anything other than a hundred percent.
4 So it's a very challenging situation, I think,
5 for the certification agencies to enforce
6 whatever rule ends up being the rule, and that's
7 not an easy task.

8 I would like to just finish up by
9 talking about sacrificial pastures. Because our
10 animals are out on pasture year-round, there are
11 times during the mud season of early spring or
12 during flooding where there is some damage done
13 to the pasture. And I can appreciate the
14 emotional reaction that a previous person had to
15 that wording. But I can tell you as a grazer
16 that that grass does recover, sometimes without
17 even needing a reseeding. Yes, it can be brought
18 down into a muddy state, but the point would be
19 that it is a limited area. And the land does
20 recover. It does not -- it is not permanently
21 damaged, in our experience, and that's what I'm
22 speaking from, in our experience on our farm.

23 And I will admit that we don't have
24 really low lying land that's horribly flooded, so
25 we are grateful to be up on a higher ground.

1 Thank you, again.

2 MR. SIEMON: Okay. Roger Peters
3 passed, and now we have Kevin Miess.

4 MR. MIESS: I'm Kevin Miess, and I'm
5 from Dodgeville, Wisconsin. I'm a beef farmer
6 and crop farmer. And I am an Organic Valley
7 member. Thanks for coming today, listening to
8 us.

9 I believe for finishing cattle, I'm a
10 grain finisher, and not a grass finisher, so it
11 would be really detrimental to my finishing
12 process to not allow feedlots. I believe
13 feedlots get a real bad rap, and I believe
14 there's good qualities to them. Like you're
15 talking about sacrificial land. I consider that
16 already my sacrificial land. And you don't --
17 the land doesn't erode. You can bed in and keep
18 the cattle clean that way. So there are good
19 qualities to it. So that's all I have to say.

20 MR. SIEMON: Dave Engel and Kay
21 Wiemer.

22 MR. ENGEL: My name is a Dave Engel.
23 I've been a dairy producer for 27.5 years. I've
24 been working with the organic regulations for
25 20 years.

1 And, Richard, you may not know a
2 little bit of this history, but in 1989 we went
3 to an OCIA meeting in Vancouver representing the
4 13 members of this Wisconsin OCI chapter here, of
5 which, of whom seven were dairy farmers, because
6 we needed dairy standards, and we didn't have
7 any, and OCI was the group at that time that was
8 fairly progressive and one of the few certifiers
9 out there really. And we put together some dairy
10 standards, and those came through them, through
11 the process in 1990 with the law, and then the
12 rulemaking process that ended up with the 2002
13 (inaudible).

14 So I feel that I have quite a bit of
15 experience with this, not only as a dairy
16 farmer -- I'm in my dairy clothes right now
17 because I've got to get back home and continue
18 cleaning a shed for the calves.

19 So I work for -- I'm the executive
20 director of Natures International Certification
21 Services. We have perhaps 30 dairy clients, 35.
22 And I also work for Organic Health. I'm the
23 Midwest Certification Program Coordinator.

24 I do think more time would be
25 helpful. This is so far reaching that it would

1 be good to have more time for more people to
2 input. I think Mark Kastel mentioned about the
3 Amish, the Mennonite factions that are not easily
4 represented. I have talked to them. I talked
5 with a gentleman this morning that was very
6 concerned about it. There will be more input
7 coming from people that are not able to represent
8 themselves as well if we give them more time.

9 I do agree with what Will Hughes had
10 said. I think an economic impact statement would
11 be good. I'm -- you know, we're hearing some
12 anecdotal reactions here to the impact. Ipkey
13 (phonetic) mentioned his straw.

14 By the way, when you bed an animal,
15 regardless of what it's with, they're going to
16 mess around with it, you know, frolic a little
17 bit, they love bedding, but then they're going to
18 lay down. You know, they've walked on it. They
19 don't really -- they're not going to sit there
20 and eat it. They may nibble at it. I think this
21 is a real practical, common sense point that has
22 to be taken into consideration, and don't make it
23 too prescriptive. The thing is working well as
24 it is.

25 I should say right away that my

1 recommendation -- and I don't know, you may have
2 picked this up when I shared it in Washington --
3 but -- and I will be submitting a more detailed
4 or, you know, applicable comments for the
5 December 23rd deadline -- but in general the rule
6 is working. There were -- there have been, there
7 may continue to be a small number of producers --
8 and I'm not concerned about the size -- we have
9 some smaller producers that we have to challenge
10 on a continuous improvement basis.

11 So size is -- you know, ironically I
12 think if we go forward with this, the size is
13 going to benefit -- the larger producers are
14 going to be able to be more able to meet the
15 regulatory, the spreadsheet, the computers that
16 are going to be necessary, the little one-foot
17 graphs that you're going to have to take out
18 there to take the forage samples with and, you
19 know, the heater, the lab test and everything.
20 They're going to be able to comply with that.

21 It's just not in, you know, my
22 abilities nor interest to take that kind of
23 detail and have to work with it on a daily basis
24 to come up with a monthly report or an annual
25 report. It just boggles my mind, both as a dairy

1 farmer, and then as a regulator, a certifier,
2 inspector, who has to go out there and then try
3 to quantify it.

4 I think there was -- contrary to what
5 some people have said here today, this started in
6 2003, 2004. The NOSB provided a guidance
7 document to try to address the concerns that were
8 coming forward about the large herds. And at
9 that point in 2006, the USDA held a listening
10 session. I guess it was a pasture symposium in
11 Pennsylvania. I attended that. It was very well
12 put together. I really enjoyed it. One of the
13 comments from that by John Banson was -- and I
14 can't remember what it was in response to, but he
15 said, you know, if it looks like a duck, if it
16 walks like a duck, if it quacks like a duck, it
17 probably is a duck. And he was responding to,
18 you know, what is pasturing? How do you know
19 when somebody is doing it? Well, you know, you
20 go onto a farm, and you see perimeter fencing,
21 you see some interior fencing, you see lanes,
22 gates, waters here and there. Those people are
23 probably pasturing. You're probably going to see
24 some animals out there.

25 And at that point if we put numbers

1 in the rule -- see, this piece that I handed to
2 Richard and I've given to several of you around
3 here. There are some out here too. I encourage
4 you to take it. If we put numbers in the rule,
5 all hell is going to break loose. I just -- I
6 cannot express it any other way. Both for the
7 farmer in keeping track of things, and for the
8 certifier to have to keep track of things.

9 And what's going to happen, a number
10 is a number. The three-year thing, you know,
11 36 months. That's a number. If you go out there
12 and you've applied something in 2005, you planted
13 some corn in the middle of May -- let's say the
14 end of May, you got it in the end of May. So
15 then you go out there in 2008, 36 months later,
16 and you try to harvest your first crop of hay off
17 of that field -- which is in hay now -- you know,
18 it's been there two years, 11 months, 20 days.
19 It's not good enough. It should have been two
20 years -- it should have been a full 36 months.
21 That's what a number does in a rule. And the six
22 months, the 30 percent, the 120 days continuous
23 grazing, and the other numbers that are trying to
24 be incorporated here are really going to pinch
25 and wreak havoc both economically and as a

1 livelihood because people -- I don't know.

2 So just let me look at my notes here.

3 I've pretty much covered a lot of what I wanted
4 to say. Again, from my experience with producers
5 around the Midwest, organics is still a growing
6 business. Dairying is still a very viable choice
7 of a conventional dairy farmer. When this kind
8 of specificity gets put in, though, if it were to
9 be put in, I could share with you, and I hope to
10 be able to monitor and facilitate some of the
11 comments coming from our producers to the USDA so
12 that you'll be able to see that as people have
13 been saying here, the winter is a real concern.

14 And I understand how your response
15 has been in that it's not like it sounds. And I
16 know that as a regulator we're going to have
17 discretion and leeway in what the grazing season
18 is and then inclement weather, etc. But it's
19 just -- you know, knowing -- seeing how it's
20 worked for 20 years, and working with people on a
21 daily basis. I mean, I got my cell phone here --
22 it's turned off -- but I get phone calls all day
23 long from people wondering about this and that.

24 Practical, common sense, daily basis,
25 we don't need all the specificity. What we need

1 are certifiers that are monitored as appropriate
2 by the USDA via their accreditation, and good
3 auditors that come on a -- well, I guess it's
4 going to be every 2.5 years now. But on an
5 annual basis paperwork is sent in, more
6 monitoring could be done, and get back to what
7 George was indicating, that's a continual
8 improvement farm plan based rule. I think it
9 works well, and I don't think we need to go in
10 the direction of specificity like this.

11 So thank you.

12 MS. WIEMER: Hello. My name is Kay
13 Wiemer. My husband John and I milk about 80
14 cows, about 400 acres in west central Wisconsin.

15 I'm speaking to you as a producer
16 that's looking at the rules and needs to make it
17 work on our farm. I've been active with Organic
18 Valley on the pasture committee, so I've seen it
19 from that perspective. But, again, I'm looking
20 at these rules as something that I need to take
21 home and make work.

22 Many of the previous speakers have
23 talked about the specifics, and I agree with
24 them. Record keeping was one of the specific
25 areas that I would ask some of the specifics be

1 taken out. The formulas and forms, formulas can
2 change, forms can change. If they're in a
3 federal rule like this, it can be very difficult
4 to change them. So I would be an advocate for a
5 guidance document that certifiers can use and
6 farmers can use for those types of specific
7 information. Leave those specific formulas or
8 forms to the certifiers.

9 And if there is an issue with
10 certifiers, then they should be held accountable
11 in a review process. The certifiers that we've
12 worked with, both MOSA and Organic Health, have
13 worked -- we provided specifics on what we allow
14 or what we required for pasture. Give us 120
15 days, give us 30 percent, and let us prove,
16 document whatever the necessity is, that we're
17 actually doing that. I think the rule says
18 monthly documentation. But as you were talking
19 with George, one phrase you mentioned, was you
20 stated 30 percent is required over the growing
21 season. So let us show it to you over the
22 growing season.

23 That's one thing we at Organic Valley
24 already do. I think two or three years ago we
25 formulated a pasture committee, that we wanted to

1 provide information to our consumers that we were
2 pasturing and that Organic Valley's product was
3 pasture based. So we do have a formula or a form
4 that we provide annually, and are inspected on
5 it. We've also provided it to our certifiers,
6 and they use that to take a look at acres we
7 provide for pasture, the number of head that we
8 run on that pasture of various types, calves,
9 heifers and cows. And we can document then that
10 we, over the growing season, do provide 30
11 percent pasture. Not just over 120 days, but it
12 might be 200 days, depending on the weather and
13 how it cooperates with us. So I would be --

14 MR. MATHEWS: Just a second. Can you
15 send me that form?

16 MS. WEIMER: You bet. You bet. But,
17 again, I would be an advocate for putting that in
18 a guidance document so that -- I'm not a
19 nutritionist, but I'm the bookkeeper at home.
20 And the types of cattle, size, breeds, can one
21 formula really fit all those different animals?
22 We have Jersey cows, we have Holstein cows, we
23 have some Brown Swiss. I know their maintenance
24 requirements are different, and I know their
25 intake is different. Can it necessarily be

1 summarized in one formula? I really don't think
2 so. But, again, I'm sure there are some
3 nutritionists out there that could help us with
4 that.

5 The other thing I would like to speak
6 to are some of the other specifics, and these are
7 just a couple. Shelters open to one side,
8 cleaning waters weekly, hay in a rack off the
9 ground, confining cows only up to one week post
10 calving. Those are specifics that to a farmer as
11 a manager really crimp our style.

12 The cleaning of water once a week
13 kind of reminds me of when you go into a public
14 bathroom and you seen the sign on the back, and
15 you wonder, oh, it hasn't been signed for a
16 couple of days. You know, how are we going to be
17 policed on that? So to me, providing fresh water
18 is adequate. If I as a manager want to get the
19 most out of my animals, I'm going to provide them
20 clean water. And that's just me as caretaker of
21 that animal, we're going to provide those things.
22 How will I be required to document that I cleaned
23 that water weekly? I mean, to me I'm not sure
24 how you would be able to do that in that rule.
25 So just comment on that one.

1 And shelters open to one side, in
2 Wisconsin you probably need it. In California
3 maybe you don't. So confining cows -- as someone
4 else mentioned, we let our cows calf outside as
5 much as possible. We've had instances where
6 we've taken a cow in and had her confined more
7 than a week just because of medical issues after
8 calving. So, again, how do we document that?
9 Because if it's in the rule, a certifier is going
10 to require us to document. So I'm just not sure
11 somehow to document that.

12 The other thing that I just want to
13 say is, keep it simple. We as producers don't
14 have staff. We have 80 cows. I work full-time
15 off the farm. Our three kids help. I don't --
16 we don't have a person available to us to keep
17 monthly documents of what the cows eat.

18 I'm -- I have talked with John Banson
19 several times, and someone made a comment that he
20 had said, you know, if you look out and see the
21 pasture and you see lanes and you see it there,
22 you can tell if someone is doing it or not.

23 So keep it simple. And the
24 specifics, put in a guidance document that we can
25 use. But as someone else mentioned too, if

1 there's a majority of the people doing it right,
2 don't let a few instances require specifics, like
3 cleaning waters once a week.

4 Organics is growing. It's been a
5 godsend for us. And it's a total life change for
6 us. We want to encourage other people to come
7 into organics. If someone thinking about
8 transitioning to organics takes a look at some of
9 the specifics in this rule, I would be pretty
10 sure in saying they would turn and walk away. We
11 want to encourage that as consumer growth
12 happens, as we want to work on our environment.
13 Organic is a great way to improve our
14 environment. We want to encourage people into
15 it. So we don't want to make it so specific that
16 people just want to turn and run.

17 So, thanks.

18 MR. MATHEWS: Unless I misheard, I
19 just wanted to make one clarification. The form
20 that is laid out in the proposed rule is an
21 example. It is not something that is included in
22 the regulatory text itself. So in the -- if you
23 looked into the proposed rule, you'll see this
24 form that -- where you document. That was
25 provided as an example of what we were talking

1 about. It's not necessarily the form that you
2 would have to follow if that were to be
3 implemented in the final rule.

4 Who is our next speaker?

5 MR. SIEMON: Sorry. Ron Hansen.

6 MR. HANSEN: Hi, I'm Ron Hansen, an
7 organic dairy farmer from 15 miles east of here.

8 The proposed rules there on pasture,
9 the problem I would have with the main aspect of
10 it being 30 percent of the dry matter intake over
11 the growing period for a cow, I got -- I don't
12 know how unique a situation I have; I think
13 around here it's more common than in most
14 places -- but my pasture, I got quite a bit of
15 pasture, and I got a good environment for my
16 cows, but it's all ridge-side pasture, and it
17 does not produce nothing like bottomland or black
18 land. I come from Iowa, and it's black, and it's
19 rich, and those figures maybe would fly easily
20 there. But for me to produce 30 percent through
21 the growing period in that pasture, even though
22 I've got -- I must have -- I've got well over an
23 acre per cow, so I got a lot that way, you might
24 say, or adequate. But the actual production,
25 especially when it -- if it doesn't rain or

1 whatever, would be very -- I'd come short on
2 that. And so to quantify and say 30 percent, you
3 know, I know it's hard to -- I'm sure it's hard
4 to enforce some of this stuff, and especially
5 what I get here is the -- kind of the difference
6 between the spirit of organic and the specifics,
7 you know, that there are two very different
8 things there. And to enforce the spirit is
9 impossible, so you want numbers. And I
10 appreciate that, but you got to have your numbers
11 livable for everybody who has the right spirit.
12 And so you're going to put a lot of people out of
13 business with that 30 percent. It's not
14 feasible.

15 And to document it all is very
16 concerning too, quite burdensome. I don't have
17 time hardly to be here, let alone try to keep
18 more documents on top of all the other
19 documentation that we already have to do in the
20 organic industry.

21 So I would plead for something simple
22 and as few numbers associated with it as
23 possible, where you're going to discourage and
24 eliminate a lot of people. If you have to have
25 numbers, I would sure encourage you to put them

1 down where you wouldn't put a lot of people out
2 of business. But you can have a happy medium
3 where you're -- you know, what is the purpose of
4 numbers? You know, enforcement isn't really a
5 justifiable reason to enforce numbers. That's
6 not the organic way.

7 So I don't know what the answer is
8 for you for enforcement, but specific and
9 especially substantial quantifying is not the
10 answer. I'm like Dave Engel. He's my certifier.
11 I believe truly that -- I really believe that you
12 need inspectors that can have some discernment
13 and can truly understand what's going on when
14 they come on the farm. And here again, I don't
15 know if enforcement is the only reason. I
16 suspect -- and I'm not real up on this -- but I
17 suspect maybe to try to eliminate people that
18 aren't really -- not -- they're not -- they
19 don't -- they're just wanting the money, and they
20 weren't in it for helping anything or being
21 organic. You might say they just shoot for that
22 getting squeezed in under the numbers wire, under
23 the rules wire to just get the money. So I don't
24 know what all the answers are there either, other
25 than trying to discern the spirit of where

1 someone is at.

2 As far as access to outdoors, I don't
3 know who's got the idea of -- the thought that
4 putting animals outdoors in the wintertime is
5 good for them. My cows, they don't want to go
6 outside in the wintertime. You know, I have a
7 tie stall barn, and they love consistency, and so
8 I got to either feed them inside or outside. All
9 summer and fall and spring I feed them outside
10 because they go in pasture, and I can feed them
11 outside. But when cold weather comes, I start
12 feeding them inside for their sake, and for the
13 animals' welfare I put them in. And in this part
14 of the country the idea of thinking you should
15 turn them out every single day is -- well, I
16 won't call it absurd, but it's not reality. The
17 welfare of the animal -- if you want the best
18 welfare for the animal in this part of the
19 country, make a law to say keep them in, don't
20 them turn out during the wintertime.

21 So that's pretty ridiculous when
22 you -- if you come to my place, I can show you,
23 every time it's a cold rain, like in spring and
24 fall and it's raining and it's cold, why it might
25 not even be raining much, but I got to push my

1 cows out, because they're used to being fed
2 outside, and I'm going to feed them outside for
3 consistency sake, because the cow will get messed
4 up and wreck production if you're always
5 switching your routines around. And so I got to
6 push her outside into that rain. When they get
7 out from under the barn roof, why, the cow is
8 wanting to turn around and come right back in.
9 So you need to rethink what your purposes are,
10 and if it's animal welfare, that is so wide
11 range, you cannot require outdoor access 365 in
12 this part of the country anyway, I don't believe.

13 A calf six months old to be out on
14 pasture. Well, maybe for environment sake, they
15 might be a little better off, but if you do a
16 good job and bed nice, I question how much better
17 off they'll be. Because they'll have to put up
18 with the social dynamics, the social detriments
19 of grouping, because you can't have a little
20 piece of pasture, individualistic. And if you
21 put little calves together, they'll start sucking
22 on each other possibly. And certainly grass is a
23 poor -- grass is a poor feedstuff for little
24 calves. It's got so much water in it, and the
25 little calf's stomach is not a ruminant yet, and

1 it can't eat enough to supply any nutritional
2 benefit. The calf is designed to have milk. And
3 you put a little calf out on grass, you will have
4 to give it grain and some solid dry hay or he's
5 going to get bony and he isn't going to grow, and
6 it's going to be a terrible, terrible thing for
7 the calf.

8 So here again species specifics. You
9 know, you can't just put blanket number out there
10 and think that it's going to work. It won't
11 work. I'll guarantee you, those things will not
12 work on some of this stuff.

13 Putting fence along the creek, you
14 know, if someone's consistently overstocking,
15 there could be some detriment there, but I think
16 it's excessive. I got a short creek area. I
17 don't look forward to having to fence it. I
18 don't overstock; it don't hurt nothing. The fish
19 need a little food themselves, you know. So I
20 don't think that's really necessary. If you got
21 specific problems, yeah, then deal with the
22 stocking, and not having to put fences all over
23 the country.

24 Cleaning waters, where I come from in
25 Iowa, yeah, you would have to clean them

1 regularly if you want them nice because there was
2 sulfur in the water, and the water -- you know,
3 you leave even a glass of drinking water, it
4 would kind of stink after a while. But out here,
5 my waters, I don't ever clean them. And I was
6 shocked to not have to. I moved out here 10,
7 11 years ago. And it's beautiful water. And my
8 waters are clean, and there's no black, they
9 don't smell bad. Why, if you was very thirsty,
10 why you could take a shot of it yourself, and
11 never think a thing of it.

12 So to put mandatory rules on
13 everybody, even though some might need that, it's
14 a quagmire of documentation and enforcement. And
15 I don't think you want those things. I think
16 you're asking for trouble with too much of
17 these -- this numbers game. It's going to be
18 trouble.

19 What else? So more on the letting
20 out. My tie stall barn in the wintertime, if I
21 let the cattle out very long, it would cool down
22 to far. It's designed, the water is designed,
23 the milk system is designed to stay warm. And if
24 I turn them out like someone might want them
25 turned out, why, that barn's going to be too

1 cold, and we're going to have a nightmare of
2 problems.

3 I got apples out in my pasture, apple
4 trees. And I don't know maybe, Jim, if you're
5 still here -- here again, I can't see nothing
6 because of the light -- but if you're here, maybe
7 you have the same scenario. No one's absolutely
8 documented for my, you know, information, and I'm
9 scared to document, but they tell me that
10 apples -- when the apples start falling, it
11 depresses the milk production. And like I say,
12 I'm scared to prove that, so I lock them out of
13 there when the apples start dropping because I
14 don't want to find out the hard way that it's
15 true. And enough people, quite a few people have
16 told me that it will drop milk production. And
17 we've got to deal with financial realities, too.
18 You know, it's good to have the right stuff and
19 healthy milk, and we're all for that, but you
20 also got to deal with financial reality sometimes
21 too -- or certainly, too. And so there's a
22 portion of my pasture that they can't graze a
23 large portion of it, that I don't graze them when
24 the apples start falling.

25 So there's another one of those

1 quirky little circumstances, that you can't
2 address everybody's quirky circumstances.
3 There's just too many of them out there. I got
4 apples. The guy out in Pennsylvania might have
5 some weird bug or something. You just -- there's
6 more to it than just putting out some figures
7 there. We got to be careful of that, I think.

8 Okay. I think that's about all that
9 I -- oh, as far as bedding goes, you know, I
10 think I'm okay with my bedding. I feel for the
11 guy who needs a lot for his manure pack, or
12 bedding pack, you call it. We call it manure
13 pack in Iowa. But, anyway, my cows get bedded
14 with sand. Well, it's not organic sand, and they
15 do eat it. I know, no matter what, how good feed
16 you feed that cow, when you put some dry fodder
17 out there, they're going to nibble some of it.
18 They might nibble even more than enough -- I know
19 I lost -- was it me or my brother -- we lost a
20 beef cow -- a critter, a steer, because they were
21 being fed a high energy ration, and he threw
22 out -- it was Allen, my brother -- he threw out a
23 bunch of bedding, and bedded them real nice, and
24 he thought, man, this is -- you know, the cows
25 are doing good. Well, those cattle so craved

1 that cruddy stuff -- they always crave what they
2 don't have. Kind of like people. I don't know
3 if you notice that, but what you don't have is
4 usually what you want. And they ate that
5 bedding. Because they weren't used to
6 assimilating the fiber as well, it plugged one of
7 them up and killed them dead just because of
8 that.

9 I know they're going to eat a little
10 of that stuff. But here again, like Dave said,
11 where do you -- do you have to eliminate every,
12 every little ounce of everything? Is that too
13 burdensome? And it might be, but -- and like I
14 say, I hope -- no one talked about organic sand,
15 but I'd be in trouble, because I just order a
16 load of sand and I throw it in there. And they
17 will eat some of it. So, anyway, little joke
18 there on the sand thing, because most sand is not
19 organic, and hopefully it doesn't have any
20 problems with it or waste in it.

21 Okay. So I think that's all I have,
22 and thanks for listening.

23 MR. SIEMON: Is it Kallin Maxwell?
24 And then Adam Heisner.

25 MR. MAXWELL: Hello. I'm Kallin

1 Maxwell. I farm in Green, Wisconsin, and I
2 currently ship to Westby Co-op.

3 One of the biggest concerns I have
4 is, my family has a 50-cow stall barn, and
5 obviously the pasture log is going to affect us
6 most greatly, because like many other people
7 said, everything in the barn needs to be
8 40 degrees or above. And I think the producer
9 needs to be the determining factor what inclement
10 is, not the USDA. Because as we're caretakers of
11 the animal, and every climate is different, by
12 you guys putting stipulation on what inclement
13 is, then how am I supposed to take care of my
14 cows the way I want to, under your definition of
15 inclement?

16 Another problem I have, everybody had
17 huge challenges this spring with all the rain.
18 And you say you need a sacrificial pasture. My
19 whole farm was sacrificed. I had no place to put
20 my animals, and they spent a month on concrete.
21 And John Shudby (phonetic) is here, my fieldman,
22 and if you want to talk about cell count
23 problems -- no one's mentioned quality. Isn't
24 organics about quality, not whether they're kept
25 out on the lush grass or -- or no one talks

1 quality, and quality needs to be talked. Because
2 I'm a very strict manager. My cows are clipped
3 twice a year. We clip all the udders. For me to
4 put my cows outside, it would be a mess. And I
5 think we need to look at how every farm is
6 managed.

7 And no one also talked about
8 production. Me being a first generation dairy, I
9 have no family ties to an operation. I need the
10 income of 60 or more pounds of milk. I can't
11 afford 30 pounds of milk. And everybody take a
12 look at feed costs, fuel. No one can afford
13 that, unless you have a farm given to you, and
14 unfortunately I don't have that.

15 So I would like to thank you for
16 hearing our opinions, and I hope you take in what
17 everybody had to say today. Thank you.

18 MR. HEISER: Adam Heiser. And I
19 thank you for coming today, and I hope that the
20 rest of your listening sessions are just as
21 populated and with many good comments.

22 But the first thing, I used to work
23 for the USDA myself. I was underneath AMS in the
24 meat grading and certification branch, so I
25 understand standards, and I understand what the

1 standardization branch is used to. They're used
2 to specifics, they're used to black and white,
3 they're used to laying it out there. These are
4 the rules, this is how it goes.

5 But as you can see today, each and
6 everybody's farm is widely different from the
7 other. And to develop a standard that is going
8 to allow each and everyone of us to manage our
9 own future in our own way with our own livestock
10 is pretty difficult. And so I think that the
11 standards for organic production have to reflect
12 that. They have to reflect the flexibility and
13 the variance among everybody's possible
14 operations.

15 With that said, certifiers should be
16 given the ability to interpret the way you would
17 like them to interpret it. The good news is on
18 all of this, the standards are working. Contrary
19 to what some people believe, the standards are
20 working. And the reason I can say with
21 confidence they're working, is because we know
22 the bad actors. We know the certifiers that
23 aren't doing the appropriate job. We know who
24 they are. And furthermore if new come on line,
25 we know how to handle them because we have gone

1 through the trenches of dealing with it before.
2 And so by tightening the standards with the black
3 and white -- you can do this, you can't do that
4 type of authoring -- isn't going to work across
5 the United States. So those are some of my big
6 things.

7 Now, obviously, I want to come down
8 and talk about some of the specifics which you
9 asked for. The ration formulization on a monthly
10 basis, it's been reiterated about today on and on
11 again. We barely have time to come here. I'm
12 glad so many people took time to come here. But
13 while we were here, we could have been home doing
14 our formula ration so that we meet the standards,
15 you know, taken an afternoon to do that. It's
16 just one of those things that if we have to do
17 that on top of everything else, we might not be
18 available to do things, important things like
19 this.

20 The second thing, you stipulate in
21 there that paddocks and a pasture must contain
22 water. I have 250 acres of permanent pasture on
23 my farm, not all of which have water. I
24 accommodate for those pastures by watering cattle
25 and making sure cattle are on paddocks that have

1 water at night, always offering fresh water at
2 the barn, those types of things. I don't think
3 we need to go through and tell each and every
4 dairy producer that they have to offer their
5 cattle water. Milk is over 86 percent water. If
6 we don't offer them water, they're not going to
7 milk. It's kind of one of those things that,
8 yes, we are going to offer water, we are going to
9 offer fresh clean water, because if you don't,
10 quality suffers, intake suffers, milk production
11 suffers. It's one of those things that we don't
12 need a standard to tell us that we need to water
13 our cattle. They are animals, by the way. We
14 know that.

15 The ponds and streams, of that
16 250 acres there's a large portion of it that I
17 have a mile and three-quarters worth of streams
18 going throughout. Riparian grazing is something
19 that it's very well documented through rotational
20 grazing is acceptable. Stream banks don't erode
21 with rotational grazing. It's proven. And
22 continuous grazing on those riparian areas, those
23 are the areas that need the help. And as one
24 gentleman said earlier, our Department of Natural
25 Resources gives us guidelines for riparian

1 grazing and stream bank crossings and so forth.
2 So to let the USDA come out and write a standard
3 within organic production on how they want their
4 streams and riparian areas grazed and managed, I
5 think is completely unnecessary.

6 The other interesting aspect is the
7 idea of a sacrificial pasture. Every acre of my
8 farm -- and I'm in Iowa County, which is commonly
9 known as the upland area of Wisconsin -- is
10 certified by the Natural -- NRCS as highly
11 erodible land. Every acre that I farm is on HEL
12 land. So to find a paddock or a place where I
13 can sacrifice, as though it says, is nearly
14 impossible.

15 With that, we have developed on our
16 farm our tool which we utilize, sand bedded free
17 stalls and an open air runway where the cattle
18 eat. They have access to the outdoors 24/7, but
19 they're on concrete in the wintertime. And why
20 are they on concrete in the wintertime? Because
21 I need the nutrients that those cattle provide me
22 with manure to go out and grow my crops. The
23 manure is an extremely valuable fertilizer that I
24 cannot let disappear on a sacrificial pasture so
25 I could never retain it to go out and raise my

1 crops to feed my cattle.

2 The other problem I have is -- well,
3 that leads into the dry lot definition. I have a
4 dry lot, I have a feedlot. Because of what I
5 choose to house my cattle in, in the wintertime,
6 I have those facilities. According to your
7 definition, they are open air, they are on
8 concrete, they are offered water, very
9 comfortable, large sand-bedded free stalls that
10 are well maintained. And so to put those
11 definitions into a standard is going to take the
12 system, which organics has helped me develop
13 because of the added income which I have received
14 from it, would render them unusable, or I could
15 use them, as long as I never closed the gate,
16 so --

17 And then you said something earlier
18 about the growing season and droughts being
19 certified by the administrator or a designated
20 drought. Every year I have a drought on my farm,
21 every single year. And it has nothing to do with
22 a certified drought by anybody. The reason I
23 have a drought is because of where I live,
24 there's a dry season. It typically starts from
25 the second week of June and goes to the second

1 week of August. This year it went from the
2 second -- or July, excuse me -- it went from the
3 second week of July into the third week of
4 September. It didn't rain. And when I didn't
5 get rain, I don't have grass. When I don't have
6 grass, I am forced to go into that facility to
7 feed and maintain my cattle. Could I go out and
8 rotate my cattle through the pastures and feed
9 them out on the pastures? Sure, I could. But
10 what's been found out is when you continually go
11 through these pastures and offer them feed on the
12 pastures is, you are doing the grass very little
13 benefit because you are continually clipping and
14 clipping and clipping and clipping that grass
15 that's gone into a dormant state because of
16 drought. And then recovery time for that grass
17 is quite a bit longer. And when it quits raining
18 we come off pasture so that when it starts
19 raining again, we can quickly go back to pasture.
20 So that we haven't beaten the grass up to the
21 point where the recovery time is so long that we
22 don't have the feed available to our cows.

23 The next point I would like to speak
24 to is Origin of Livestock. I understand the
25 intent, and I believe that it is working. The

1 one thing that we have to understand is, there is
2 a difference between certifying milk and
3 certifying beef. Milk is milk. Beef is beef.
4 They each have their different standards. And I
5 really believe that in order to allow us, and
6 those farmers in that very example that you gave,
7 to -- you know, milk is milk. He was shipping
8 milk; he was shipping milk. But to say that
9 because somebody is transitioned a different way,
10 it's unfair, it's unacceptable, and we need to
11 remember that the end result is what's being
12 certified. If he wants to go through the records
13 and say that these cattle that I bought from my
14 neighbor that were certified underneath a whole
15 herd transmission cannot be certified as beef, I
16 think that's fine. I think that's acceptable.

17 The last thing I want to speak about
18 is this whole idea of 100 percent. With my
19 training at the USDA in statistical sampling, I
20 understand that 100 percent is unattainable. I
21 don't care what type of system you're trying to
22 monitor. 100 percent is not attainable. The
23 best anybody could do is 95 percent. And so I
24 believe that the standards are working, because
25 we're getting those small percentage of people --

1 not the size of their operation, but the small
2 number of people that are bad actors, I believe
3 are being dealt with in the appropriate manner.

4 And the last thing that I would like
5 to talk about is the certifiers. The wide
6 variance that certification agencies have between
7 themselves I think is a big problem, because
8 that's where we get into the misconceptions of
9 the consumer. When one certification agency
10 interprets a standard one way and another
11 interprets it another, and they're completely
12 opposite, that allows the consumer to see that
13 there's an inconsistency. So to deal with the
14 certifiers who are administering the rules, to
15 make them understand the intent of the rule I
16 think is paramount. And being the person that
17 had to administer rules, that's how it was dealt
18 with in that agency, is you dealt with the person
19 that was administering the rules. You provide
20 the standardization to them, and they are the
21 ones that are to logically go out and administer
22 in a standard fashion.

23 So your job is very difficult. It's
24 a very large mountain to climb. But I would like
25 to say that I believe the standards are

1 functional, and the standards are working, and
2 that we can rest easy knowing that you're doing
3 the best you can. But to go through and put it
4 in black and white is a little bit of a change
5 for you and your agency because of how you
6 develop standards for other things is
7 understandable, but it doesn't really apply to
8 what you're trying to do here.

9 Thank you.

10 MR. SIEMON: John Brandt.

11 MR. BRANDT: Hello. My name is John
12 Brandt. I'm an organic dairy farmer. I sell to
13 Westby. I have to say that because I have to sit
14 next to my fieldman when I get back to my chair.

15 I really don't have much to say. I
16 think most of it has been said. My main concern
17 was the being outside in wintertime. I'm on a --
18 someone else here had the problem -- we're on a
19 steep hillside, on ridge, heavy clay. Even in
20 the summertime if I can't walk in that pasture
21 because it's greasy with the clay, I don't care
22 to have my cows out there. And it's very steep,
23 icy, and hard ground, snow covered. I -- as the
24 one lady said, I wouldn't be able to sleep at
25 night having my cattle out there on some

1 evenings, some nights in wintertime. I'm really
2 concerned about pasturing, outside access all
3 winter. I don't think that's necessary.

4 I think a lot of the rules, a lot of
5 the numbers you are coming up with are better off
6 as guidelines, and let our certification people
7 become more uniform themselves. A lot of these
8 problems, I think this whole pasture thing is
9 because of Aurora Dairy and some of these
10 problems we've had. I guess I would ask who the
11 certification agency was. I would like to know
12 who's the certification agency that allowed
13 Aurora Dairy, these kind of outfits, to even
14 become the problem that they are.

15 Aurora didn't run into trouble solely
16 because of the pasture. They had -- I think they
17 wound up with, what, 1,200 cows out of over
18 3,000. I don't know the number exactly. I think
19 their biggest problem was they had so many
20 conventional cows in the herd, over half the herd
21 was conventional. What certification agency
22 would allow that? If my inspector came out and
23 saw I had doubled my cow numbers or there was a
24 big increase in cow numbers, they'd want to know
25 where they'd come from.

1 The rules are there. I hate to see
2 all these numbers applied to me that are supposed
3 to cover everybody in the country. I think
4 they'd be best as guidelines for the
5 certification. Get them all on the same page and
6 let them make the decisions for their region of
7 what works.

8 That's all I have to say. Thank you.

9 MR. SIEMON: Caleb and then Mike
10 Green. Caleb Winkel.

11 MR. WINKEL: My name is Caleb Winkel.
12 I farm with my father and my brother in Fond du
13 Lac County, Wisconsin. So I'm here as a
14 producer. I'll try to be a little short-winded.
15 Sorry.

16 One of my first comments is regarding
17 the grazing, the definition of grazing, which
18 says the consumption of standing pasture. In our
19 farm in the summer we have some alfalfa pastures,
20 and it works quite well for us to clip the
21 pasture first, then put cows on it. And they're
22 still eating the pasture, eating the forage on
23 the same land, but because it's alfalfa, alfalfa
24 has bloat problems because of the tannins. So
25 the cows will bloat. We've actually had some

1 problems with that in the past before we started
2 doing this simple management technique, to clip
3 the pastures and allow them to wilt for, you
4 know, 12 hours, 36 hours, and then put the cows
5 in. And that totally omitted our calf loss due
6 to that. And I don't know if that was intended
7 or not, but as I read the definition of standing
8 pasture, I'm not sure --

9 MR. MATHEWS: You mean because it
10 says rooted?

11 MR. WINKEL: Well, it says standing.
12 Because if you cut it, it's no longer standing.
13 I guess, I would be okay with haylage on pasture,
14 too, if you can get cows out there and eat it.
15 I'd just like to -- because that would take a lot
16 of our summer grazing out. And some people say,
17 you know, that's a dry weather crop, and so we're
18 able to keep, you know, grazing somewhat then,
19 keep the cows out.

20 My second -- another point is having
21 water in all pastures all the time. I'm not sure
22 how that would work in winter. We do -- on our
23 farm we have a hoop house with bedded pack, so
24 our cows are hoop housed in there. So in a way
25 they're almost outside because they have

1 sunlight, and it's cold in winter. But we also
2 feed them in bale ring feeders outside in
3 sacrificial pastures, which could possibly
4 (inaudible). Bale rings on pastures (inaudible)
5 runoff, that's a runoff hazard, too, because we
6 have cows out there. Of course, we're following
7 the rules to the extent right now that's also
8 of -- somewhat questionable maybe as an issue of
9 management, an issue of management standpoint.

10 I don't know about having water out
11 there. I guess, is it just water during the
12 grazing season, because that would be before the
13 first frost, so you wouldn't have any freezing
14 water, so you wouldn't have to worry about the
15 water lines freezing up or anything.

16 I think the cattle being outside
17 is -- our cows are usually outside in the winter,
18 at least during the daytime. We'll open the gate
19 up, maybe we'll put feed inside and outside, and
20 they can go outside if they want. That's access
21 to pasture, right -- or actually it's outdoor
22 access. I think that's what the intention was.
23 But we also have other heifers and dry cows in
24 the lot so we can kind of manage their ration
25 that way.

1 One of my last comments, I notice
2 that there's a rule that requires calves to have
3 hay in a feeder at seven days. Universally
4 studies show that calves don't have developing
5 ruminants that early. In fact, a lot of
6 conventional calf raisers, there's a lot of
7 debate about whether calves should even be fed
8 forage at an early age because it could hinder or
9 accelerate rumen development. It's a
10 controversial issue. I think seven days is a
11 little early for a controversial subject.

12 Oh, and being that it's hung off the
13 ground, because calves and cows all naturally
14 have the best salivary development, secretions
15 when their heads are six to eight inches off the
16 ground, which is the natural grazing behavior, so
17 we usually -- we give our calves a slice of hay
18 or whatever, at weaning. And it's usually on the
19 ground. If they trample it, they don't eat it,
20 and that's our loss. In some feeders, too. But
21 I would suggest maybe changing that to something,
22 access to forage or hay at least 30 days before
23 weaning. Because that way the calves have access
24 to forage before they're weaned, but it doesn't
25 necessarily have to be within seven days, because

1 seven, eight, ten days, these cows -- or calves
2 aren't ruminant at all yet, and so at least by
3 saying the date before weaning, they're not just
4 eating grain as field calves would be, or a lot
5 of more conventional calf grazers which have a
6 diet high in starches and concentrates.

7 I think that's all I have. Sorry.

8 MR. SIEMON: Mike Green is the last
9 one -- no, Mike Green and then Tom Kriegl. And
10 then if anyone else wants to sign up.

11 MR. GREEN: Hi. My hat's off to you
12 for standing here all afternoon.

13 I'm Mike Green. I farm about a half
14 hour from here in Richland County. I was
15 transitioned into dairy, the organic, and started
16 in '92, beginning (inaudible). We discontinued
17 dairy in 2004, and now I'm a beef finisher.

18 And my main concern is the 120-day
19 rule as far as finishing beef cattle on grain.
20 I'm also on the board of directors for an organic
21 meat company. And in the infancy years getting
22 that company started, we (inaudible). And one of
23 the things that we did, rather than have a USDA
24 grade, we did an in-house grading. And we had --
25 we didn't go by choice and select. We had our

1 own synonyms for those same grades. But, anyway,
2 our salespeople told us that we couldn't sell --
3 they couldn't sell our meat unless it was USDA
4 graded. People wanted USDA graded meat. So USDA
5 also has a grading function. And so it's choice
6 and select and prime. And so the market wants
7 choice. And so we had to go by the USDA grades,
8 and they grade our cattle the same as they do
9 conventional cattle. Well, right now our co-op,
10 our producers are averaging around 68 to
11 70 percent choice on grain-finished cattle. I
12 don't think we'd have a grain-finished program if
13 we didn't have a finishing provision in there for
14 the 120 days. I don't think our cattle would
15 grade choice; and therefore, we wouldn't have a
16 market.

17 And there is a market out there for
18 grain-finished organic cattle. I finish probably
19 150, 160 head a year for the organic meat
20 company. My wife direct markets probably another
21 35 to 40 head. And the consumer expects to have
22 organic steak, the taste, the cutability, the
23 texture of the conventional steak that he was
24 eating. He's concerned about pesticides and
25 antibiotics and the whole nine yards.

1 I don't think the feeding protocol as
2 far as days is a big issue. I know organic --
3 I'll speak to conventional. I think a lot of
4 conventional feeders wean calves and put them on
5 feedlots. Because of the cost of grain and the
6 way we do it, we've been complying with the
7 120-day feeding regimen. You have to keep those
8 cattle on pasture longer to get them up to a
9 heavier weight so you can finish them in
10 120 days. And then there are certain times of
11 the year -- we're coming into one right now --
12 where I don't think you could finish cattle in
13 less than 120 days just because of the
14 temperatures here. And then you also have the
15 warmer temperatures in the middle of summer. So
16 it takes longer, because in the summertime they
17 cut back on the amount of grain they eat; in the
18 wintertime it takes a lot of that grain to
19 maintain body temperature.

20 So I think your rule as far as
21 eliminating finishing cattle on feedlots, I think
22 it would just about do away with organic finished
23 cattle. It would make a huge impact, I think, as
24 far as the beef industry as organic.

25 And the other thing, I was reading

1 some of the other rules today while I'm sitting
2 and listening. And if you are going to allow
3 calves six months before going on pasture, which
4 is 180 days, my calves are dropped on pasture,
5 and they're on pasture from day one. We're
6 talking less days in their life off of grass than
7 you're talking maybe dairy calves.

8 So I'm just saying, one of the things
9 I don't understand, we have USDA, you're here
10 today promoting doing away with feedlots. Yet we
11 have another agency saying, you have to meet
12 these standards to be USDA choice. And those
13 two, they're not comparable.

14 Thank you.

15 MR. MATHEWS: Before you step away.
16 It sounds like what you were telling me is that
17 120 days is the minimum number of days necessary
18 for finishing.

19 MR. GREEN: I think 120 days is
20 adequate. I mean, you're going to push it, you
21 know, in the months of December, January, and
22 February in this area, you're going to push it.
23 Spring and fall, you probably could -- you know,
24 if you're putting heavier cattle on feed, you
25 probably can do it in 90 days. You have that

1 much variance, I think, in the weather and the
2 temperature.

3 MR. MATHEWS: Okay. So if we came
4 out with a provision that said finish feeding is
5 allowed, you're saying that the number should be
6 120 days.

7 MR. GREEN: Right. I mean, I think
8 that's where it is currently.

9 MR. MATHEWS: Because it's not
10 necessary to go more than 120, and it's possible
11 to do it for less than 120.

12 MR. GREEN: Right. I think 120 is
13 adequate.

14 MR. MATHEWS: But while it's possible
15 to do less than 120, that's probably on the rare
16 side, versus the optimum of 120.

17 MR. GREEN: Right. I think then
18 you're getting into the seasonality of feeding.
19 It would be pretty tough to finish a beef animal,
20 I think, in January, February in 90 days.

21 MR. MATHEWS: Okay.

22 MR. GREEN: Thank you.

23 SPEAKER: Hi. My name is Tom Kriegl.
24 I'm an agricultural economist with the University
25 of Wisconsin, Center for Dairy Profitability.

1 And the last 15 years or so, the focus of my
2 research has been on the economic competitiveness
3 of dairy systems, primarily in Wisconsin, but
4 also looked beyond the borders of the state.
5 And I participated in a USDA grant to commingle
6 data from the Great Lakes states, from the
7 province of Ontario, from grazing farms. And,
8 incidentally, we did six years of reports on a
9 3-year grant, so the taxpayers got their money's
10 worth from that.

11 The reason I point that out is that
12 I've looked at grazing systems in many states and
13 in a number of countries, in New Zealand and
14 Argentina and so forth, and so I've been engaged
15 in a lot of discussions on what is a grazer and
16 what are grazing practices, and so forth. In our
17 project we kept the definitions rather simple,
18 and that worked very well for us.

19 And I should also mention that I was
20 under the impression that there was just going to
21 be a little tweaking of the organic rules to
22 encourage more grazing in the organic system, and
23 like many other people, I guess I was a little
24 surprised last week to find out that here we've
25 got this whole set of proposals that got very

1 specific, etc. And like many other people, I
2 haven't fully read them and fully analyzed them,
3 and I do intend to provide some written comments
4 during the period as well. But I did have some
5 general reactions, and many of those reactions
6 are similar to comments that you've already
7 heard, so I'll try not to repeat too many of
8 those.

9 But in general, my overall reaction
10 to a lot of the proposed rule changes is that in
11 many cases they were the type of rule changes
12 that were going to be problematic, not only for
13 producers, but were going to be very hard to
14 enforce because some of them were very specific.
15 I think somebody mentioned before that it
16 probably would be better to have fewer rules, but
17 some pretty solid guidelines that can be used by
18 certifiers to exercise good judgment.

19 One of the things I've noticed around
20 the state of Wisconsin, as well as looking
21 outside of the borders of the state, is that
22 there's a lot of differences from farm to farm in
23 terms of what works, and that is based on soil
24 type, the microclimate of the area, the ability
25 of the manager, the topography of the land, etc.,

1 etc.

2 And as I -- obviously in my research
3 I focus first on the financial performance, but I
4 need to look underneath the financial performance
5 to look at the production practices as well. And
6 it's amazing how many different ways people can
7 make things work and how many different ways
8 people can sometimes make things not work. And
9 so one of my general reactions, which I think has
10 been a theme all this afternoon, is that some of
11 the rules have been way too specific and in many
12 respects way too restrictive.

13 I'll put my head together with Will
14 Hughes. Earlier when he testified, you asked him
15 for some evidence of some of the economic impact.
16 I think that he and I can get together and
17 provide you some of that. Even though, as anyone
18 who spends any time analyzing farm financial
19 performance knows, that there's a lot of
20 different variables, and so it's hard to find one
21 or two or three that are so important that
22 nothing else matters. But we can still identify
23 a number of factors that can have economic
24 impacts, and I think we can provide you some more
25 scientific background for that.

1 MR. MATHEWS: I would appreciate
2 that.

3 MR. KRIEGL: And, in fact, I did
4 bring along some copies of some of my reports
5 that I can give you here at the end of the
6 session if you would like to have those for your
7 reference, including the six-year report from
8 that USDA grant project.

9 I'd like to comment on a couple of
10 items that other people did mention. Somebody
11 mentioned the fencing of streams. Lots of people
12 in Wisconsin know how controversial it was at one
13 point -- this was 15 or 20 years ago -- when our
14 Department of Natural Resources initially did
15 want farmers to fence stream banks. And DNR has
16 changed their mind during that period of time,
17 based on some research. And I can probably find
18 that research to provide you as well. And they'd
19 gotten to the point where DNR -- the DNR fish
20 manager of the state contacted me a few years
21 ago, asking my help to find people who would
22 actually graze DNR-owned land to improve the
23 trout streams on that land. So there is good
24 science behind the idea of management intensive
25 grazing along stream banks, as opposed to putting

1 fences along those streams.

2 MR. MATHEWS: Let me ask you a
3 question then. Is there a different system of
4 grazing that is better along the stream without
5 the fencing?

6 MR. KRIEGL: Well, the key point in
7 management intensive rotational grazing is that
8 you graze an area very intensively for a very
9 short period of time, very high stocking rates,
10 so that the vegetation is eaten down to a level.
11 And then, of course, the animals are removed for
12 an adequate rest period. And the amount of rest
13 period depends on the species involved, the
14 temperature, the rainfall, the soil type, and so
15 forth. And the people, of course, that have
16 gotten very good at management intensive
17 rotational grazing on their own land become very
18 good at making those judgments. And each year is
19 different.

20 MR. MATHEWS: Okay. And when you say
21 species, you're talking plant species.

22 MR. KRIEGL: That's correct. Well,
23 there might be some species issues with the
24 animals as well. Except that in Wisconsin, we're
25 usually talking cattle for the most part, and for

1 the most part dairy cattle.

2 MR. MATHEWS: So let me ask you this.

3 If we said that you had to fence in streams and
4 ponds, and put an exception in, except under an
5 intensive rotational management -- pasture
6 management system. Is something like that
7 doable?

8 MR. KRIEGL: Well --

9 MR. MATHEWS: Does that get to the
10 issue?

11 MR. KRIEGL: Well, yeah, management
12 intensive rotational grazing would be the grazing
13 method that DNR is encouraging along the streams.
14 And that's the kind of grazing that most of the
15 folks this afternoon were talking about. They
16 may have not used quite the technical term that I
17 have, but that's essentially the kind of grazing
18 that they were talking about using. And that's
19 certainly very compatible with what DNR is
20 actually promoting as well.

21 MR. MATHEWS: But DNR -- correct me
22 if I'm wrong -- would be concerned about an
23 operation that had a stream running through it,
24 that grazed that animal -- or grazed that pasture
25 throughout the growing season. In other words,

1 they didn't take them off that pasture, they
2 tried to make it all work at one spot.

3 MR. KRIEGL: Well, if I understand
4 your question correctly, they would -- in
5 Wisconsin generally we're looking at about a --
6 well, I mean, you can -- the pasture rotation can
7 be as quick as every two weeks or as long as
8 every six weeks or, you know, a normal year,
9 depending on the time of the year, the amount of
10 rainfall and so forth. And so what DNR would
11 like to see on their lands, and the lands where
12 they are quite agreeable that fencing is not
13 needed and it's improving trout streams, would be
14 where there is that intensive grazing, you know,
15 like once every -- on the average maybe once
16 every 30 days. But recognizing that sometimes in
17 some growing seasons it might be every two weeks,
18 and other times in the growing season it might be
19 once every six weeks, you know, based on how fast
20 the vegetation is growing and so forth.

21 And, of course, if it's done that
22 way, there is very little animal damage to the
23 stream bank. They control the brush and so
24 forth. They control the shading of the stream,
25 and make it a much better habitat for the fish,

1 as well as making it good pasture for the
2 livestock as well.

3 MR. MATHEWS: And a thicker, taller
4 stand of grass is going to provide better runoff
5 interrupt.

6 MR. KRIEGL: Exactly. And so a win,
7 win, win, all the way around.

8 MR. MATHEWS: So the person who may
9 actually overgraze would be the concern, but not
10 the person who's doing some good management of
11 the pasture.

12 MR. KRIEGL: That's correct. That's
13 correct. So, again, while few people used the
14 term management intensive rotational grazing
15 during this hearing, that's really what most of
16 these folks were talking about doing. I mean,
17 they're just assuming, I guess, everybody
18 understands that.

19 So a few additional points. Yeah, I
20 also was a little concerned reading the rules
21 that there would be enough flexibility in there
22 to take into account the acts of nature. A
23 number of people have mentioned that this summer
24 much of a third of Wisconsin, a large part of the
25 state of Iowa, and so forth, had substantial

1 flooding and rainfalls, and there were places
2 that people normally -- people were getting stuck
3 with tractors, animals were making tracks in
4 places where they'd never seen a rut in their
5 lifetime, the ground was so soft so many places.
6 And so not all concrete in all places is all bad.
7 There can be some good concrete in some places.
8 And, of course, as some people mentioned, there
9 are some people in parts of the state where they
10 do have this dry period during the middle of
11 summer, the pastures just don't grow. It's
12 better to keep the livestock off of the pastures
13 at that time. And if all of their land is that
14 way, that's the normal management practices that
15 they have to use to make it work. Now, they
16 still may get four or five months of grazing, or
17 six months of grazing if they start early in the
18 spring, go late in the fall, etc. But it just
19 seemed to me like the rules didn't have enough
20 flexibility for those acts of nature, which are
21 reality and that people really have to deal with.

22 Yeah, the other general observation
23 that I got from the rules was that they were a
24 little more -- they weren't focused as much on
25 outcomes as they needed to be, but were more

1 focused on a specific thing that might be done to
2 maybe achieve that outcome under the right
3 circumstances. But, of course, if you don't have
4 the right circumstances, then that set of
5 practices won't get you the outcome. And so I
6 think the rules will be better -- will better
7 serve everyone if they are more outcome oriented.

8 And I also want to mention -- I think
9 it was mentioned by a couple of speakers
10 before -- but a lot of our farmers do have
11 conservation farm plans that are implemented by
12 NRCS, and nutrient management plans, and to some
13 degree it seems like some of the organic rules
14 are sort of delving into that a bit. And in my
15 opinion the conservation farm plans and the
16 nutrient management plans are better able to
17 address those issues, because they do tend to be
18 tailor made to the farm, to the managers and so
19 forth. And, of course, they -- the conservation
20 farm plans and the nutrient management plans, of
21 course, have a lot of the same desirable
22 objectives that I think the intent of these rules
23 are to achieve, but they are more capable of
24 achieving those objectives because they can be
25 much more tailor made for the circumstances than

1 a USDA rule that has to fit the whole country.
2 And, of course, there's a world of difference
3 between, you know, the desert southwest, versus
4 Wisconsin, versus the northeast, etc. So it's a
5 very difficult task to put together a set of
6 rules that have to cover the whole country.

7 MR. MATHEWS: I understand. Cover
8 the whole world.

9 MR. KRIEGL: Yeah. And that's one of
10 the reasons why these -- why whatever rules are
11 implemented need to be more outcome oriented and
12 less specific, as a lot of the people have said.
13 So I do intend to follow this up with some
14 written comments.

15 MR. MATHEWS: Good. Thank you. I do
16 have a follow-on question. You were talking
17 about the conservation plan on the farm. Do you
18 know whether or not all of the farms that would
19 have streams or ponds would have one of those
20 conservation plans?

21 MR. KRIEGL: A pretty high percent of
22 the ones in Wisconsin would.

23 MR. MATHEWS: Okay.

24 MR. KRIEGL: Most people to qualify
25 for any of the government program payments are

1 required to have some form of this documentation
2 or these plans. And many of our farmers in
3 Wisconsin participate in one farm program or
4 another. And a lot of our farmers are eager to
5 have good conservation farm plans. I find, you
6 know, quite a conservation ethic among our
7 farmers.

8 MR. MATHEWS: Well, let me pose
9 another question to you then. Let's say that
10 instead of requiring the fencing of streams and
11 ponds, we were to instead require a conservation
12 farm plan.

13 MR. KRIEGL: I think you'd find a
14 much better acceptance among Wisconsin farmers
15 for that than fencing of streams.

16 MR. MATHEWS: But that would probably
17 be beneficial to not only -- I mean, the goal is
18 to protect the water.

19 MR. KRIEGL: Yes.

20 MR. MATHEWS: And we don't want to
21 pollute the streams. We don't want the animals
22 drinking their own waste products if they were
23 out in a pond that's not getting flushed out. So
24 wouldn't this also be a way to then ensure the
25 protection of the water systems by going with

1 this conservation plan?

2 MR. KRIEGL: Yeah.

3 MR. MATHEWS: In lieu of saying, you
4 got to go out and put up a fence. Because the
5 conservation plan is going to address the issue
6 that the rule is trying to address. So is that a
7 better way to do it?

8 MR. KRIEGL: Well, I think it would
9 be. Because I bet we could find a bunch of
10 conservation farm plans where there are streams
11 going through the farm, where the farmer is
12 grazing, where that is written into the
13 conservation farm plan. And there's probably
14 been cost sharing maybe on the stream crossing
15 that accommodates --

16 MR. MATHEWS: And some of what we
17 talk about in the proposal, that whole system of
18 turning and getting some of that cost share
19 happens. So, yeah, maybe that's another avenue
20 for handling this issue.

21 MR. KRIEGL: Yeah, yeah. I think
22 that would be a much better way.

23 MR. MATHEWS: I saw Bill shaking his
24 head up and down. So he at least likes that idea
25 better.

1 MR. KRIEGL: And, you know, maybe the
2 folks here in the audience can react to that.

3 MR. MATHEWS: Anybody else have a
4 reaction to that? Two back there. How about
5 coming up to the mike so we can get it on the
6 record. And restate your name, please.

7 MR. SCHWARTZ: My name is Mike
8 Schwartz from Bangor, Wisconsin. We already
9 actually have a nutrient management plan
10 requirement, I believe, in Wisconsin. As of I
11 think -- I think it's like June or July of this
12 year, 2008, everybody is required to actually
13 have it. Whether everybody does, you know, have
14 it or not, I don't know.

15 But one of the things, I think -- and
16 I was talking to a friend back there -- the
17 sacrificial pasture part of it, if we took -- if
18 I took and sacrificed a paddock, had the cows on
19 there probably more than a day or two, it would
20 violate my manure management plan, because I'd
21 have too much manure. Because you take the yield
22 of manure, and it goes on the square acreage. So
23 it most likely, if it was on very long at all
24 that you were doing -- you know, that you were
25 sacrificing this paddock, you would be violating

1 some -- I mean, it's kind of a catch 22. Because
2 everything is based on phosphorus limits. And
3 them are pretty low. It doesn't take much manure
4 to get over that limit. So that's a real
5 concern.

6 And I think everybody here in
7 Wisconsin -- I don't know about the other states,
8 what their requirements are -- but I don't have
9 any problem with having that as a requirement.
10 We already got it, you know.

11 MR. MATHEWS: And that's easy to --
12 you just float a copy of that, submit it along
13 with your organic systems plan?

14 MR. SCHWARTZ: Yes.

15 MR. KNIGHT: My name is Jack Knight,
16 and I'm from Allamake County, Iowa.

17 Actually some of their management
18 plans require dry lots as part of a manure
19 management system, is one point.

20 And the State of Wisconsin has a
21 non-point pollution rule on stream banks and
22 stream bank management that maybe you can take
23 some language from that, rather than the idea to
24 have a conservation -- just have a conservation
25 plan cover it. I mean, that might be another

1 tool you could use. And also --

2 MR. MATHEWS: Can you send me the
3 specifics on that?

4 MR. KNIGHT: Yes, yes, I can. Yes, I
5 can.

6 And just to give a real brief -- the
7 reason that in this area if you fence a stream,
8 trees grow up in there so thick, the ground's
9 bare underneath it, and there's actually more
10 erosion than if it's established grass. And this
11 has been -- common sense told us that 40 years
12 ago, but there's actually been studies on that,
13 just to clarify for you. That's what I had to
14 say.

15 MR. MATHEWS: Yeah. And we're
16 looking for something that will work universally.
17 So some of these comments here are going to be
18 very helpful.

19 MR. KRIEGL: Yeah, I think you'll
20 find the conservation farm plans and the nutrient
21 management plans to be very aggressively
22 implemented in several other states, too.
23 Because as I talk to colleagues around the
24 country about various issues, that I hear a lot
25 of talking about all the environmental

1 regulations at the state level, and, of course,
2 many of them are through NRCS, and through their
3 Departments of Natural Resources. And obviously
4 there's communications between the Departments of
5 Natural Resources from one state to another as
6 well.

7 So this is something that will
8 probably work in most states. And, of course,
9 being implemented at the state level, is more
10 tailor made then for the conditions in that
11 particular state.

12 And, I guess the final comment that I
13 want to make is that I'll run some of the rules
14 past some of my co-workers in Dairy Science,
15 Agronomy, etc., people who have more expertise on
16 feeding cattle and, you know, growing the
17 pastures and so forth than I do, for some of
18 their reactions. But a lot of the comments that
19 I heard earlier about some of the limitations on
20 management practices, from what I understand are,
21 you know, non -- some of the proposed rules are a
22 little bit unscientific as well. So I'll see if
23 I can get some of my co-workers in those
24 disciplines to comment on some of those items.

25 MR. MATHEWS: Okay.

1 MR. KRIEGL: Thank you.

2 MR. MATHEWS: Thank you. And I guess
3 that was the last of our speakers, or commenters.
4 Well, it looks like we lost about two-thirds of
5 the group here but --

6 UNIDENTIFIED: We don't have your
7 stamina, Richard.

8 MR. MATHEWS: I think they had
9 animals to milk.

10 But I really want to say, thank you
11 very much for coming. It was a great turnout. I
12 know it was short notice. I really appreciate
13 the feedback that I've gotten today, and I hope
14 that you feel that it was worthwhile. I
15 personally believe it was worthwhile. It was
16 great getting down here to meet with you, to
17 listen to you. And we will, we will be looking
18 at all the comments, and we will take them all
19 very seriously because we want to make this thing
20 work. Thank you very much for coming.

21 (The proceeding concluded at
22 5:05 p.m.)

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1 STATE OF WISCONSIN)
2) SS
3 COUNTY OF MILWAUKEE)

4

5 I, PHYLLIS M. KAPARIS, do hereby certify that I
6 reported the foregoing proceedings at the time and place
7 specified in the title page of said transcript and that
8 the foregoing is a full, true and correct transcription
9 of my stenographic notes thereof.

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PHYLLIS M. KAPARIS

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Court Reporter

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